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THE

Statutes at Large;

BEING

A COLLECTION

OF ALL THE

LAWS OF VIRGINIA,

FROM THE

FIRST SESSION OF THE LEGISLATURE,

IN THE YEAR 1619.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY OF VIRGINIA, PASSED ON THE FIFTH DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND EIGHT.

VOLUME XIII.

By WILLIAM WALLER HENING.

"The *Laws* of a country are necessarily connected with every thing belonging to the people of it; so that a thorough knowledge of *them*, and of their progress would inform us of every thing that was most useful to be known about them; and one of the greatest imperfections of historians in general, is owing to their ignorance of law."

Priestley's Lect. on Hist. vol. 1, *pa.* 149.

PHILADELPHIA:

PUBLISHED FOR THE EDITOR, BY THOMAS DESILVER, No. 253, MARKET STREET.

William Brown, Printer.

1823.

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We, William F. Pendleton, and William Robertson, members of the Executive Council of Virginia, do hereby certify that the laws contained in the thirteenth volume of HENING'S *Statutes at Large*, have been by us, examined and compared with the originals from which they were taken, and have been found truly and accurately printed, except as to the following list of errata to the number of nine. Given under our hands this 8th day of November, 1823.

WM. F. PENDLETON,
WM. ROBERTSON.

Page 198 line 10 from top, strike out "who."
247, 2 insert "shall" before "be."
248, 13 from bottom, after "taxes" insert "due."
336, 19 for "valse" read "value."
388, 8 from top, for "25" read "26."
406, 19 from bottom, for "to be" read "or be."
531, 12 from top, for "and act" read "an act."
Ibid. 13 for "conforming" read "confirming."
571, bottom line, last word, for "quiredet" read "required."

JOSEPH RUZICKA, INC.

PREFACE

TO THE

Thirteenth Volume of the Statutes at Large.

WITH this volume, the editor's engagements, with the public, terminate. His original stipulation was to publish the STATUTES AT LARGE, *prior** to the year 1792, the date of the former Revised Code. Since that period the Revised Code of 1819 has been published; and the difficulty of procuring many of the sessions acts between 1792 and 1819, may render it expedient to bring down the Statutes at Large to a later period.

It was the intention of the editor, in the progress of his work, to have procured from England some acts of a private and local nature, the titles of which had alone been preserved in this country, and to have published them, in an appendix to the last volume, together with a general digested index to the whole work. These, with other additions contemplated, would certainly have been made, had not the legislature at the last session,† so limited the number of volumes, and added to the matter which they were to contain, by including the sessions acts to the *end of* 1792, instead of *prior* to that date, as to swell the 12th volume to an unreasonable size, and preclude the admission of these improvements which the editor was sincerely desirous to introduce.

WILLIAM WALLER HENING.

Richmond, September 4, 1823.

* See 2 Rev. Code of 1819, p. 331.
† See acts of 1822, ch. 12.

List of Governors of Virginia, during the period comprised in this volume.

BEVERLEY RANDOLPH, Esq. who was elected governor in December 1788, continued until December 1791, when HENRY LEE, Esq. was elected. Beverley Randolph, Esq. Henry Lee, Esq.

AT A

GENERAL ASSEMBLY,

Begun and held at the Capitol in the City of Richmond, on Monday the nineteenth of October, in the year of our Lord one thousand seven hundred and eighty-nine, and in the fourteenth year of the Commonwealth.

Beverley Randolph, Esq. Governor.

CHAP. I.

An act reducing the reward to apprehenders of horse-stealers.

(Passed the 30th of October, 1789.)

Former acts giving rewards to apprehenders of horse-stealers repealed.

SECT. 1. *BE it enacted by the General Assembly*, That so much of an act intituled "An act for preventing losses from drivers passing with horses and cattle through this Colony, and for laying a duty on horses imported, and the more effectual preventing horse-stealing," as gives a reward to any person who shall apprehend or take a horse-stealer; and also the whole of the act, intituled "An act to increase the reward for apprehending horse-stealers, and for other purposes therein mentioned," shall be and are hereby repealed.

Reward to apprehenders of horse-stealer.

SECT. 2. And whosoever shall obtain from any District Court, a certificate, under the act, intituled "An act to encourage the apprehending of horse-stealers," shall receive the reward of five pounds and no more.

CHAP. II.

An act to continue the act, intituled "An act authorising the treasurer to receive specie into the public treasury by weight."

(Passed the 12th of November, 1789.)

Act authorising Treasurer to receive specie by weight, continued.

BE it enacted by the General Assembly, That the act, intituled "An act authorising the treasurer to receive specie into the public treasury by weight," which will expire at the end of the present session, shall continue and be in force, from and after the expiration thereof for three years, and from thence, until the end of the next session of Assembly.

CHAP. III.

An act to amend the acts for appointing commissioners to liquidate and settle the expences incurred in two expeditions, carried on from the Kentuckey district, against the neighbouring Indians, and for other purposes.

(Passed the 12th of November, 1789.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that the certificates which have been issued by the commissioners appointed under the acts of Assembly, "For appointing commissioners to liquidate and settle the expences incurred in two expeditions, carried on from the Kentuckey district, against the neighbouring Indians, and for other purposes," are payable in discharge of the tax on law process and alienations, and also in discharge of the tax on tobacco accruing within the district of Kentuckey: for prevention whereof in future;

Taxes on law process, alienations and tobacco in Kentuckey to be paid in specie only.

SECT. 2. *BE it enacted by the General Assembly*, That from and after the passing of this act, the tax on law process and alienations, and also the tax on tobacco receivable within the district of Kentuckey, shall be paid and accounted for in specie only; any law to the contrary notwithstanding.

CHAP. IV.

An act for the safe keeping of prisoners committed under the authority of the United States, into any of the jails of this Commonwealth.

(Passed the 12th of November, 1789.)

Jailors to receive prisoners committed under the authority of the United States.

SECT. 1. *BE it enacted by the General Assembly*, That it shall be the duty of the keeper of the jail in every district, county or corporation within this Commonwealth, to receive into his custody any prisoner or prisoners, who may be from time to time committed to his charge, under the authority of the United States, and to safe keep every such prisoner or prisoners according to the warrant or precept of commitment, until he shall be discharged by the due course of the laws of the United States.

Penalties for neglect of duty.

SECT. 2. *And be it further enacted*, That the keeper of every jail aforesaid, shall be subject to the same pains and penalties for any neglect or failure of duty herein, as he would be subject to, by the laws of this Commonwealth, for a like neglect or failure, in the case of a prisoner committed under the authority of the said laws.

United States to pay for the use of the jails,

and to support prisoners committed for offences.

SECT. 3. *Provided always*, That the United States do pay or cause to be paid for the use and keeping of such jails, at the rate of fifty cents per month, for each prisoner, that shall under their authority be committed thereto, during the time such prisoner shall be therein confined, and moreover, do support such of the said prisoners, as shall be committed for offences.

CHAP. V.

An act authorising the Governor of this Commonwealth, to convey certain land to the United States, for the purpose of building a light-house.

(Passed the 13th of November, 1789.)

Governor to convey land at Cape Henry to United States.

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for the governor of this Commonwealth, and he is hereby fully authorised, for and in behalf of this Commonwealth, by proper deeds and in-

struments in writing, under his hand and the seal of this Commonwealth, to convey, transfer, assign and make over unto the United States in Congress assembled, for the use of the said United States, all interest in, and right and title to, as well all the jurisdiction which this Commonwealth possesses, over so much of the public lands, not exceeding two acres, situate, lying and being in the county of Princess-Anne, at a place commonly called the head land of Cape Henry, as shall be sufficient to erect a light-house, subject to the terms and conditions following; that is to say, that a light-house shall be erected upon the said land, and that all charges and expences of building, and rebuilding, when necessary, and keeping in good repair, the said light-house, together with the salaries, wages or hire of the person or persons appointed by the President of the United States for the superintendance and care of the same, and all the necessary supplies, with which a light-house ought to be furnished, shall be defrayed out of the treasury of the United States:—If a light-house shall not be erected within the space of seven years, after the cession of the said two acres of land, by this Commonwealth to the United States in Congress assembled, or if at any time thereafter, the said light-house shall be suffered to fall into decay, or be rendered useless, as to the purposes for which it is to be erected, and so continue for the aforesaid period of seven years, then and in those cases, the property in the soil and jurisdiction, over the territory hereby directed to be vested in the United States in Congress assembled, shall revert to this Commonwealth, and be considered as the property, and subject to the jurisdiction of the same, in like manner, as if this act had never been made:

Subject to certain conditions; United States to build thereon a light-house, to support, repair and rebuild it when necessary.

If not built within 7 years,

or rendered useless for the same period,

the land to revert to the Commonwealth.

Sect. 2. *Provided*, That nothing in this act contained, shall be construed to affect the right of this state to any materials heretofore placed at or near Cape Henry, for the purpose of erecting a light-house; and that the citizens of this Commonwealth shall not, in consequence of this cession, be debarred from the privileges they now enjoy of hauling their seines and fishing on the shores of the said land so ceded by this act to the United States, for the purpose of building a light-house.

Right of the state to certain materials lying thereon,

and of its citizens to fish on the shores thereof not to be affected.

CHAP. VI.

An act to amend an act, intituled "An act for discouraging extensive credits, and repealing the act prescribing the method of proving book debts."

(Passed the 19th of November, 1789.)

BE it enacted by the General Assembly, That the third section of the act, intituled "An act for discouraging extensive credits, and repealing the act prescribing the method of proving book debts," which directs courts and juries ex officio to take notice thereof, and determine accordingly, although the defendants shall not have pleaded it, in the same manner as if it had been specially pleaded, shall be and is hereby repealed; and that wheresoever in the said recited act the term of six months is mentioned, the same shall be extended to one year. So much of the said recited act, as comes within the purview of this act, is hereby repealed.

Courts and juries not to take notice ex officio of the act for discouraging extensive credits.

The term of six months to be extended to one year.

CHAP. VII.

An act providing remedy and punishment in cases of forcible entries and detainers.

(Passed the 19th of November, 1789.)

SECT. 1. *BE it enacted by the General Assembly*, That none shall make any entry into any lands and tenements, or other possessions whatsoever, but in case where entry is given by the law; and in such case, not with strong hand, nor with multitude of people, but only in a peaceable and easy manner, and that none who shall have entered into the same in a peaceable manner, shall hold the same afterwards with force; and if any shall do to the contrary, on complaint thereof to any justices or justice of the peace, such justices or justice shall take sufficient power of the county, and go to the place where such force is made; and all the people of the county, as well the sheriff as others, shall be attendant upon the same

No lands or tenements to be entered or holden with force,

on complaint thereof to a justice,

offenders to be arrested: all people of the county to attend on pain of imprisonment and amercement.

justices, to go and assist them to arrest such offenders, upon pain of imprisonment and amercement at the discretion of a jury.

Sect. 2. And moreover though such persons making such entries be present or else departed, before the coming of the said justices or justice, notwithstanding, the said justices or justice in some convenient place, according to their discretion, shall have authority and power to

Justice to inquire by jury of the force,

enquire by the people of the same county, as well of them that make such forcible entries in lands and tenements, as of them who hold the same with force; and if it be found before any of them, that any doth contrary to this act, then the said justices or justice shall cause

and to cause to be re-seized, the lands so entered or holden.

to be re-seized, or to be repossessed, the lands and tenements so entered or holden as afore, and shall put the party so put out, in full possession thereof.

Sect. 3. And also when the said justice or justices make such enquiries as before, he or they shall make their warrants and precepts, to be directed to the sheriff

To issue precept to the sheriff to summon a jury.

of the same county, commanding him on behalf of the Commonwealth, to cause to come before him or them, fit persons to enquire of such entries; and if any sheriff be slack, and make not execution duly of the said precepts to him directed, to make such enquiries, he shall

Penalty on him for failing to execute it; how recoverable,

forfeit twenty-five pounds, recoverable before any court of record, as well by indictment or information, to be taken only for the Commonwealth, as by bill at the suit of the party grieved, as well for himself as for the Commonwealth, in which case one moiety of the said twenty-

and how to be applied.

five pounds, shall be to the Commonwealth, and the other moiety, together with his costs and expences, shall be to the party suing.

Mayors, aldermen and serjeants to have the same power as justices and sheriffs.

Sect. 4. And moreover mayors, aldermen, and serjeants of cities and boroughs, shall have in the said cities and boroughs like power to remove such entries, and in other articles aforesaid, arising within the same, as the justices of peace and sheriffs in counties respectively have.

Restitution not to be made if the party indicted hath had three years possession,

Sect. 5. But no restitution upon any indictment of forcible entry, or holding with force, shall be made to any, if the party indicted hath had the occupation, or hath been in quiet possession by the space of three whole years together, next before the day of such indictment so found, and his estate therein be not ended or determined; which the party indicted may alledge for stay of

restitution, and restitution shall stay until that be tried, if the other will deny or traverse the same; and if the same allegation be tried against the party so indicted, then the same party so indicted, shall pay such costs and damages to the other party, as shall be assessed by the judges or justices before whom the same shall be tried.

to be stayed until that be tried.

Party indicted to pay costs and damages if it be found against him.

CHAP. VIII.

An act against forcible and stolen Marriages.

(Passed the 19th of November, 1789.)

SECT. 1. WHEREAS women, as well maidens, as widows and wives, having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances, have been oftentimes taken by misdoers, contrary to their will, and afterwards married to such misdoers, or to others by their consent, or defiled.

Preamble.

Be it enacted by the General Assembly, That whatsoever person or persons, shall take any woman so against her will unlawfully, that is to say maid, widow or wife, such taking, and the procuring and abetting to the same, and also receiving wittingly the same woman so taken against her will, shall be felony: and that such misdoers, takers and procurers to the same, and receivers knowing the said offence in form aforesaid, shall be reputed and judged as principal felons. *Provided always*, that this act shall not extend to any person taking any woman, only claiming her as his ward or bondwoman.

Felony to take or abet any in taking any woman against her will, or to receive any woman so taken.

Not to affect those who take their wards or bondwomen.

SECT. 2. If any person above the age of fourteen years, shall unlawfully take or convey away or shall cause to be unlawfully taken or conveyed away, any maiden or woman child unmarried, being within the age of sixteen years, out of or from the possession and against the will of the father or mother of such maiden or woman child, or out of or from the possession and against the will of such person or persons, as then shall happen to have, or by any lawful ways or means, the order, keeping, education or governance of any such maiden, or woman child, and being thereof duly convicted, shall suffer imprisonment without bail or main-

Any person above fourteen taking any unmarried woman child from her parents or guardians against their will,

to be imprisoned for a term not ex-

ceeding two years;

prize, for any term not exceeding two years, as shall be adjudged against him

or so taking such woman child and deflowering her,

Sect. 3. If any person or persons, shall so take away, or cause to be taken away as is aforesaid, and deflower any such maid or woman child as is aforesaid, or shall against the will or knowledge of the father of any such maid or woman child, if the father be in life, or against the will or knowledge of the mother of any such maid or woman child, having the custody or governance of such child, if the father be dead, by secret letters,

or contracting marriage with her,

messages or otherwise, contract matrimony with any such maiden or woman child, every person so offending, and being thereof lawfully convicted, shall suffer imprisonment of his body, by the space of five years, without

to be imprisoned 5 years without bail or mainprize.

bail or mainprize.

CHAP. IX.

An act concerning a new edition of the Laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the Laws and Resolutions of each Session.

(Passed the 18th of November, 1789.)

Preamble.

Sect. 1. WHEREAS the great number of the laws of this Commonwealth, dispersed as they are through many different volumes, renders it often questionable, which of them are in force; copies of those laws are procured with difficulty, and only at high prices; and so many of them have been repealed, wholly or in part, were temporary and have expired; were occasional, and have had their effect; were private or local, or have been re-enacted in substance, in the laws, taken from the report of the revisors, appointed in the year of our Lord one thousand seven hundred and seventy-six, that scarce a third of them concern the public at large.

Certain persons appointed to revise the laws—and to report to the General Assembly.

Be it enacted by the General Assembly, That James Mercer, Henry Tazewell, Joseph Prentis, Saint George Tucker, Edmund Randolph, James Innes, John Taylor and John Marshall, Esquires, be appointed, whose duty it shall be, first, to report to the next session of the Ge-

neral Assembly, what English statutes, if any there be, are suited to this Commonwealth, and shall not have been enacted in the form of Virginia laws; secondly, What laws or parts of laws, which are of a general concern, shall remain in force at the close of the present session of Assembly; thirdly, What laws on the same subject, ought from their multiplicity to be reduced into single acts; and fourthly, What laws or parts of laws are either unfit to be continued in force, or unnecessary to be published in any code of the laws; fifthly, To prepare and report as aforesaid, marginal notes and a full index to all the laws of the Commonwealth; sixthly, To note in due order of time and report as aforesaid, the titles of all those laws, which may be proper to be omitted, in a general compilation of the laws; and seventhly, to instruct the clerk of the House of Delegates, as far as it may be in their power, how to obtain for the use of his office, copies of those laws, the rolls whereof are lost.

To prepare marginal notes and a full index to the laws.

Copies of those laws, the rolls whereof are lost, to be procured.

SECT. 2. And for preventing many inconveniencies, which certain rules for the construction of laws have already occasioned, and may hereafter occasion:

Be it further enacted by the General Assembly, That whensoever one law, which shall have repealed another, shall be itself repealed, the former law shall not be revived, without express words to that effect: every act passed during any stated annual session, shall commence in force on the first day of March then next ensuing, unless in the act isself, another day be particularly mentioned, for the commencement thereof.

A law repealed, not revived by repealing the law which repealed the first.

When the acts passed at stated sessions to commence in force.

SECT. 3. As often as a question shall arise, whether a law passed during any session, changes or repeals a former law, passed during the same session, the same construction shall be made, as would have been made, if the act entituled "An act concerning election of members of General Assembly" had never been passed.

Rule of construing laws passed at the same session.

SECT. 4. This act shall commence and be in force on the fifteenth day of January one thousand seven hundred and ninety.

CHAP. X.

An act concerning homicide by misfortune.

(Passed the 18th of November, 1789.)

Any person killing another without felony to be acquitted.

BE it enacted by the General Assembly, That in case it be found by the country, that any man by misfortune, or in his own defence, or in other manner without felony, did kill another, he shall be acquitted.

CHAP. XI.

An act declaring the law concerning the carnal knowledge and abuse of a woman child under the age of ten years.

(Passed the 18th of November, 1789.)

Felony without clergy to have carnal knowledge of a woman child under the age of 10 years.

For a plain declaration of the law; *Be it enacted by the General Assembly*, That if any person shall unlawfully and carnally know and abuse any woman child under the age of ten years, every such unlawful and carnal knowledge shall be felony; and the offender being duly convicted thereof, shall suffer as a felon, without allowance of clergy.

CHAP. XII.

From rev. bills of 1779, ch. cxxi.

An act allowing a bill of exceptions to be sealed.

(Passed the 18th of November, 1789.)

Bills of exceptions to be sealed.

BE it enacted by the General Assembly, That when one impleaded before any court and in any cause, where appeal, writ of error or supersedeas lies to a higher court, doth alledge an exception, praying, that the justices will allow it, if they will not allow it, and he that alledgeth the exception, do write the same exception, and require that the justices will put their seals in testimony thereof, the justices, or the greater part of them present shall so do; and if such higher court upon complaint made of

the said justices, cause the record to come before them, and the same exception be not found in the roll, and the plaintiff shew the exception written, with the seals of the justices put to it, the justices shall be commanded, that they appear at a certain day, either to confess or deny their seals, and if the justices cannot deny their seals, they shall proceed to judgment according to the same exception, as it ought to be allowed or disallowed.

If exceptions be omitted in the record justices to be summoned to confess or deny their seals.

CHAP. XIII.

An act to amend an act, intitled "An act establishing District Courts, and for regulating the General Court."

(Passed the 17th of December, 1789.)

SECT. 1. *BE it enacted by the General Assembly*, That the general court shall no longer have jurisdiction over any cause which shall be depending therein on the thirty-first day of December, one thousand seven hundred and eighty-nine, by appeal, writ of error, supersedeas, or on a special verdict found, or a case agreed in the said court, except such cases as may have been removed into the general court from the district courts, since the establishment thereof; but every cause so withdrawn from the general court, if it be an ejectment brought in the said court, shall be sent to and tried in the court of that district wherein the land lieth, or if it be of any other kind to the court of the district in which the county lieth, the court whereof, rendered, gave or made the judgment, sentence or order, upon which the said appeal, writ of error or supersedeas is founded, or where the writ was served.

Certain causes depending in the general court transferred to the district courts.

SECT. 2. The omission of the plaintiff on the return of any writ of supersedeas, to issue another, shall not in any case work a discontinuance, but the district court to which the cause may be sent, may issue other writs of supersedeas in like manner as such writs might have been issued by the general court, on the return of any preceding writ.

Omission on the return of a supersedeas to issue another not to work a discontinuance.

SECT. 3. Every district court is hereby declared to have the same cognizance and authority over the causes

No tax to be paid on judgments in the causes transferred to the district courts.

aforesaid so sent thereto, as the general court now hath, but no tax shall be demanded on the judgments rendered in the causes herein before directed, to be transferred from the general court to the district courts.

Jurisdiction of the general court in controversies concerning wills and intestates estates.

SECT. 4. The general court shall have jurisdiction and authority to hear and determine all causes, matters, suits and controversies testamentary which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons dying intestate, and to do all other things concerning wills and administrations according to law.

Concurrent jurisdiction of the general and district courts in granting administrations in certain cases;

SECT. 5. The general court and the district courts within their respective districts shall have power to grant letters of administration during the infancy or absence of an executor, or ad colligendum bona defuncti or pendente lite, or until a will which may have once existed, but is destroyed, shall be established.

Bond and oath of the administrator.

SECT. 6. The bond and oath of the administrator in such cases shall be changed from the bond and oath of an administrator in ordinary cases, in such manner as to the said courts or any of them shall seem necessary.

Copies of certain wills to be admitted to record,

SECT. 7. Authenticated copies of wills proved according to the laws of any of the United States, or of countries without the limits of the same, and relative to any estate within this commonwealth, may be offered for probate in the general court; or where the estate so devised shall lie altogether in any one county or district, the court of such county or district respectively may admit to record any such authenticated copies, but the bond and oath of the executor or administrator with the will annexed, shall be changed from the bond and oath now required by law, in such manner as to the said court shall seem necessary, and the proof to be made by the witnesses shall be conformed to the nature of the case. But such will shall be liable to be contested and controverted in the same manner as the original might have been.

in what courts,

Bond and oath of the executor or administrator,

Proof to be made by the witnesses.

Such wills may be contested.

Jurisdiction of the general court in certain cases.

SECT. 8. The general court shall have jurisdiction to hear and determine motions against the delinquent subscribers of the Powtomack and James river companies, and for securities against their principals, and for sheriffs against their deputies and securities or either of them, to receive the proof of deeds for lands or other estate, and the relinquishment of any feme covert of her

right and interest therein, either in person or by commission according to law, and record the same: and to ascertain the average price of tobacco.

How deeds partly proved in the general court may be fully proved.

SECT. 9. A deed for lands now or at any time hereafter partly proved in the general court, may be fully proved there, or shall be delivered by the clerk thereof to any person authorised to demand the same, with an indorsement of the proof made, and it may be fully proved and recorded in the court of the district in which the lands lie.

Limitation of the jurisdiction of the general court.

SECT. 10. But the general court shall not exercise any power, jurisdiction or authority in any causes civil or criminal, except what is expressly given thereto by this act, or the act intitled "An act establishing district courts and for regulating the general court," or hath been or shall be expressly given thereto by some act subsequent to the last recited act.

When a judge of the general court may act without taking certain oaths.

SECT. 11. Any person appointed a judge of the general court, may act as a judge of the district, without having taken the oaths as a judge of the general court.

Before whom a judge of the general court may take the oaths of office; The certificate of his taking such oaths to be recorded.

SECT. 12. Any person appointed or to be appointed a judge of the general court, may take the oaths required by law to be taken by a judge of the general and district courts before the executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, any law to the contrary notwithstanding; such certificate shall be recorded in the general or district court where such judge shall first sit.

Appeals returnable to a wrong day to be sent for trial with other appeals—

SECT. 13. The appeals which before the passing of the act intitled "An act establishing district courts and for regulating the general court," were sent to the general court and were returnable to a wrong day, shall be sent for trial to the proper district court in the same manner as other appeals.

When executions issuing from the general court may de returnable.

SECT. 14. Executions may be issued from the general court returnable to the second term of the said court, following the day of issuing the same.

Certain suits remaining in general court to be tried in district court held in Richmond. Suits not discontinued because not sent in time to the district courts.

SECT. 15. The suits remaining in the general court because the residence of the defendants is not known, shall be tried in the district court held in the city of Richmond, and the said suits, or any other suits not sent in due time to the district courts, shall not for that reason only be discontinued.

One judge to constitute a district court,

SECT. 16. *And be it further enacted*, That whensoever any one of the judges allotted to a district court shall not attend the same, let the cause of non-attendance be what it will, the judge who shall attend, shall constitute a court in the same manner as if the non-attending judge had been sick or otherwise disabled; and

and may give judgment and award execution against persons convicted of capital offences.

any one judge may hear and determine a motion in behalf of the commonwealth for giving judgment and awarding of execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence, or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted.

Where a certiorari may be granted without notice.

SECT. 17. A certiorari to remove proceedings on a forcible entry or detainer, or for any other purpose, except the removal of a suit from an inferior court, may be granted without notice.

Court of appeals may grant writs of supersedeas.

SECT. 18. A writ of supersedeas may be granted by the court of appeals or any judge thereof, to a judgment of any district court, in the same manner and on the same terms as a supersedeas is directed to be granted by the district court to a judgment of a county court; bond shall be given as in the case of an appeal from a district court to the court of appeals.

A judge may attend the same district court twice successively.

SECT. 19. It shall be lawful for the same judge to attend the same district court twice successively.

When clerks pro tempore of the district courts may be appointed.

SECT. 20. Where the clerk of a district court may not attend, or a vacancy in that office be not filled up by an appointment, it shall be lawful for the judges or judge allotted to such district as the case may be, to appoint a clerk pro tempore.

The seventy-seventh section,

SECT. 21. The seventy-seventh section of the act intitled "An act establishing district courts and for regulating the general court," shall be and is hereby repealed.

part of the eighty-eighth and the 89th of the act establishing district courts repealed—

SECT. 22. So much of the eighty-eighth section of the above recited act, as directs, that no supersedeas shall be issued in any case except such as in respect to its value or nature would have admitted an appeal, and also the eighty-ninth section of the said law shall be repealed; and that writs of error or supersedeas may be granted by a district court or any judge of the general court to a judgment of a county court, where such judgment shall be of the value of ten pounds, or one thousand pounds of tobacco or upwards.

Writ of error or supersedeas may issue to judgments for ten pounds or upwards.

SECT. 23. For good cause shewn, the general court may direct a trial at bar, or cause a suit depending in one district to be tried in another.

General court may direct suits to be tried at their bar or in other districts.

SECT. 24. The district court for the counties of Accomack and Northampton, shall be held on the fourteenth day of May and the fourteenth day of October in every year; but should either of those days happen on a Sunday, then the said courts shall be holden on the next day

Days of holding Accomack district courts changed.

SECT. 25. The next court to be held for the district composed of the counties of Wythe, Washington and Russell, shall be held at the courthouse in the county of Wythe, late the courthouse for the county of Montgomery, and thereafter every court for the said district, shall be holden at Washington courthouse only.

Where the court for the district of Wythe, Washington and Russel to be held.

SECT. 26. *And be it enacted*, That if the proprietor of the Sweet Springs shall fail to contract with the justices of Botetourt county for the building of such a courthouse and prison as they may judge necessary, at his own expence, on or before the twelfth day of March next, and to be completed within two years from that day, it shall be lawful for the proprietor of the Red Springs, to contract with the said justices for the erecting the said courthouse and prison at the Red Springs at his own expence, to be completed within two years after such contract with the justices aforesaid, and after the same shall be so erected, then the Red Springs shall become the seat of the district court, directed by the said recited act, in the same manner as if the courthouse and prison had been erected at the Sweet Springs.

When and by whom courthouse and prison in the Botetourt district to be built.

SECT 27. A district court may adjourn a question of law in any criminal case to the general court with the consent of the criminal, which may be there argued and decided, although such criminal be not present.

Questions of law in criminal cases may be adjourned from a district to the general court.

SECT. 28. No justice of the peace or member of a corporation court, who shall have committed any person for examination by the court of his county or corporation, or shall have been a member of the examining court, shall be sworn on the petit jury empannelled for the trial of such person.

A justice committing or examining a criminal not to be sworn on the petit jury.

SECT. 29. Unless good cause be shewn to the contrary, the general court shall direct a suit, depending before a district court in which a judge of the general court is a party, to be removed to be tried at the bar of the general court.

General court may remove and try at their bar any suits in a district court in which one of the judges is a party.

The general court and the clerk thereof to grant commissions for examining witnesses.

SECT. 30. The general court and the clerk thereof, may grant commissions for the examination of witnesses in the causes therein depending, in the same manner as a district court and the clerk thereof respectively.

Appearance day in writs and other process.

SECT. 31. The appearance day to all writs and process shall be according to the direction of the general court.

What sheriff to execute judgments of the district courts in criminal cases.

SECT. 32. To prevent misconstruction, it is hereby declared, that the sheriff of the county in which any district court shall sit, shall execute all judgments rendered by such court in any criminal case, provided such judgments are by law to be executed in the said county.

Certain office judgments to be sent to the district courts, how to be set aside.

SECT. 33 All office judgments, which are now suspended, shall be sent to the district courts, according to the law in other cases, and all office judgments which have been or shall be sent to the district courts may be set aside in the same manner, that office judgments entered in the district courts may be set aside.

Allowance to the clerk of the general court for preparing the causes for the district courts, how to be paid.

SECT. 34. For the services already rendered by the clerk of the general court, in preparing the causes to be sent to the district courts in pursuance of the district law: and for those to be rendered by him in the execution of this act, the executive having regard to the fee bill, shall make him compensation, to be paid out of the contingent fund.

When records on appeals, writs of error, &c. are to be sent to the district courts.

SECT. 35. If a record on an appeal, writ of error or supersedeas be not delivered to the clerk of the district court before or during the second term of such court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the court to the contrary; and after such dismission, no writ of error or supersedeas shall be allowed.

Allowance to sheriffs and jailors attending district courts,

and to cryers for services heretofore performed,

and how to be paid.

SECT. 36 Every district court may make a reasonable allowance to the sheriff and jailor attending the same, for their trouble, as well for their services heretofore rendered, as those in future to be by them performed, to be paid as the cryer of the general court; and the auditor of public accounts is hereby required to issue warrants in favour of such persons as have heretofore acted as cryers in the several district courts, agreeably to the certificates of the clerks of the said courts, to be paid in the same manner as the cryer of the general court.

Sheriffs to pay interest on money levied

SECT. 37. Where judgment shall be rendered against a sheriff or his deputy on motion in any court within this Commonwealth, for failing to pay money levied

by execution, the same shall be for the sum levied, with interest thereon, at the rate of fifteen per centum per annum, from the return day of the execution until the judgment shall be discharged. by execution and retained by them.

SECT. 38. When any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting than if he was in custody on one execution only, nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor at whose suit such debtor was first taken. So much of all acts as comes within the purview of this act is hereby repealed. Dieting allowed a debtor in custody under several executions, and allowance to the sheriff therefor.

CHAP. XIV.

An act concerning the erection of the district of Kentuckey into an independent state.

(Passed the 18th of December, 1789.)

SECT. 1. WHEREAS it is represented to this present General Assembly, that the act of last session intitled "An act concerning the erection of the district of Kentuckey into an independent state," which contains terms materially different from those of the act of October session, one thousand seven hundred and eighty-five, are found incompatible with the real views of this Commonwealth, as well as injurious to the good people of the said district: Preamble.

Be it enacted by the General Assembly, That in the month of May next, on the respective court days of the counties within the said district, and at the respective places of holding courts therein, representatives to continue in appointment for one year, and to compose a convention with the powers, and for the purposes herein after mentioned, shall be elected by the free male inhabitants of each county above the age of twenty-one years, in like manner as delegates to the General Assembly have been elected within said district in the proportions following: In the county of Jefferson shall be elected five repre- Representatives, to compose a convention, to be elected in the Kentuckey district. Qualification of the electors, where they are to vote,

sentatives; in the county of Nelson five representatives; in the county of Mercer five representatives; in the county of Lincoln five representatives; in the county of Madison five representatives; in the county of Fayette five representatives; in the county of Woodford five representatives; in the county of Bourbon five representatives, and in the county of Mason five representatives: *Provided*, that no free male inhabitant above the age of twenty-one years, shall vote in any other county except that in which he resides, and that no person shall be capable of being elected unless he has been a resident within the said district at least one year.

Qualification of the representatives,

Sect. 2. That full opportunity may be given to the good people of exercising their right of suffrage on an occasion so interesting to them, each of the officers holding such elections, shall continue the same from day to day, passing over Sunday, for five days, including the first day, and shall cause this act to be read on each day immediately preceding the opening of the election, at the door of the court-house or other convenient place; each of the said officers shall deliver to each person duly elected a representative, a certificate of his election, and shall transmit a general return to the clerk of the supreme court, to be by him laid before the convention.

Elections to be continued for five days,

Duty of the sheriffs conducting them,

Sect. 3. For every neglect of any of the duties hereby enjoined on such officer, he shall forfeit one hundred pounds, to be recovered by action of debt by any person suing for the same.

Penalty on them for neglect.

Sect. 4. The said convention shall be held at Danville on the twenty-sixth day of July next, and shall and may proceed, after choosing a president and other proper officers, and settling the proper rules of proceeding, to consider and determine whether it be expedient for, and the will of the good people of the said district that the same be erected into an independent state, on the terms and conditions following:

The convention to determine on the expediency of erecting the said district into an independent state, on certain conditions;

Sect. 5. First, that the boundary between the proposed state and Virginia, shall remain the same as at present separates the district from the residue of this Commonwealth.

Boundary between the proposed state and this Commonwealth.

Sect. 6. Second, that the proposed state shall take upon itself a just proportion of the debt of the United States, and the payment of all the certificates granted on account of the several expeditions carried on from the Kentuckey

The proposed state to pay part of the debt of the United States

district against the Indians, since the first day of January one thousand seven hundred and eighty-five. and of this Commonwealth.

Sect. 7. Third, that all private rights and interests of lands within the said district, derived from the laws of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed state, and shall be determined by the laws now existing in this state. Rights to lands derived from this Commonwealth to be secured.

Sect. 8. Fourth, that the lands within the proposed state of non resident proprietors, shall not in any case be taxed higher than the lands of residents, at any time prior to the admission of the proposed state to a vote by its delegates in Congress, where such non residents reside out of the United States; nor at any time either before or after such admission, where such non residents reside within this Commonwealth, within which this stipulation shall be reciprocal; or where such non residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any land within either the proposed state or this Commonwealth, belonging to non residents, citizens of the other, subject such non residents to forfeiture or other penalty within the term of six years, after the admission of the said state into the Fœderal Union. How lands of non resident proprietors are to be taxed, when forfeited for neglect of cultivation.

Sect. 9. Fifth, that no grant of land or land warrant to be issued by the proposed state, shall interfere with any warrant heretofore issued from the land office of Virginia, which shall be located on land within said district now liable thereto, on or before the first day of September one thousand seven hundred and ninety-one. Grants of lands by this Commonwealth and the proposed state not to interfere.

Sect. 10. Sixth, that the unlocated lands within the said district, which stand appropriated to individuals or description of individuals, by the laws of this Commonwealth, for military or other services, shall be exempt from the disposition of the proposed state, and shall remain subject to be disposed of by the Commonwealth of Virginia, according to such appropriation, until the first day of May one thousand seven hundred and ninety-two, and no longer: thereafter the residue of all lands remaining within the limits of said district, shall be subject to the disposition of the proposed state. Unlocated lands appropriated to individuals for military services to be disposed of by this Commonwealth.

Sect. 11. Seventh, that the use and navigation of the river Ohio, so far as the territory of the proposed state, or the territory which shall remain within the limits of this Commonwealth lies thereon, shall be free and com- Navigation of the Ohio to be free and common.

mon to the citizens of the United States, and the respective jurisdictions of this Commonwealth and of the proposed state on the river as aforesaid, shall be concurrent only with the states which may possess the opposite shores of the said river.

Commissioners to settle disputes which may arise respecting the foregoing articles.

SECT. 12. Eighth, that in case any complaint or dispute shall at any time arise between the Commonwealth of Virginia and the said district, after it shall be an independent state, concerning the meaning or execution of the foregoing articles, the same shall be determined by six commissioners, of whom two shall be chosen by each of the parties, and the remainder by the commissioners so first appointed.

What number of members necessary to proceed to business,

SECT. 13. *Provided however*, That five members assembled, shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations or refusals to act; a majority of the whole shall be a sufficient number to chuse a president, settle the proper rules of proceeding, authorise any number to summon a convention during a recess, and to act in all other instances where a greater number is not expressly required. Two thirds of the whole shall be a sufficient number to determine on the expediency of forming the said district into an independent state on the aforesaid terms and conditions, *Provided* that a majority of the whole number to be elected concur therein.

and to determine the question concerning the erection of the said district into an independent state.

When the authority of this Commonweath over the said district to cease.

SECT. 14. *And be it further enacted*, That if the said convention shall approve of the erection of the said district into an independent state on the foregoing terms and conditions, they shall and may proceed to fix a day posterior to the first day of November, one thousand seven hundred and ninety-one, on which the authority of this Commonwealth, and of its laws under the exceptions aforesaid, shall cease and determine forever over the proposed state, and the said articles become a solemn compact mutually binding on the parties, and unalterable by either without the consent of the other.

The assent of the general government to be obtained.

SECT. 15. *Provided however*, That prior to the first day of November, one thousand seven hundred and ninety-one, the general government of the United States shall assent to the erection of the said district into an independent state, shall release this Commonwealth from all its fœderal obligations arising from the said district as being part thereof, and shall agree that the proposed state

shall immediately after the day to be fixed as aforesaid posterior to the first day of November one thousand seven hundred and ninety-one, or at some convenient time future thereto, be admitted into the Fœderal Union.

The convention to provide for the establishment of a constitution of government for the proposed state.

SECT. 16. And to the end that no period of anarchy may happen to the good people of the proposed state, it is to be understood that the said convention shall have authority to take the necessary provisional measures for the election and meeting of a convention, at some time prior to the day fixed for the determination of the authority of this Commonwealth, and of its laws over said district, and posterior to the first day of November one thousand seven hundred and ninety-one aforesaid, with full power and authority to frame and establish a fundamental constitution of government for the proposed state, and to declare what laws shall be in force therein, until the same shall be abrogated or altered by the legislative authority acting under the constitution so to be framed and established.

Privileges of the electors, and of the representatives.

SECT. 17. *And be it further enacted*, That the electors in going to, continuing at, and returning from an election of members to the said convention, shall be entitled to the same privileges from arrest, as are by law allowed at an election of members to the General Assembly, and each person returned to serve as a member in said convention, shall be entitled to the same privileges from arrest in going to, during his attendance on, and returning from said convention, as are by law allowed to the members of the General Assembly.

The executive to transmit this act to this Commonwealth's representatives in Congress.

SECT. 18. This act shall be transmitted by the executive to the representatives of this Commonwealth in Congress, who are hereby instructed to use their endeavours to obtain from Congress a speedy act to the effect above specified.

CHAP. XV.

An act against those who counterfeit letters or privy tokens, to receive money or goods in other men's names.

(Passed the 18th of November, 1789.)

Preamble.

SECT. 1. WHEREAS many evil disposed persons have falsely and deceitfully contrived, devised and imagined privy tokens and counterfeit letters in other men's names, unto divers persons, their special friends and acquaintances, for the obtaining of money, goods and chattels of the same persons, their friends and acquaintances, by colour whereof the said evil disposed persons have deceitfully and unlawfully obtained and gotten great substance of money, goods and chattels into their hands and possession, contrary to right and conscience.

Any person deceitfully obtaining another's money or goods, by means of false tokens,

Be it enacted by the General Assembly, That if any person or persons, shall falsely and deceitfully obtain or get into his or their hands or possession, any money, goods or chattels of any other person or persons, by colour and means of any such false token or counterfeit letter, made in any other man's name as is aforesaid; every such person and persons so offending, and being thereof lawfully convicted in the court of the district, in which such offence shall have been committed, shall have and suffer such correction and punishment, by imprisonment of his body without bail or mainprize, for any space not exeeeding one year, and setting upon the pillory, as shall be unto him or them limited, adjudged or appointed by the said court.

to be imprisoned and set upon the pillory.

Person injured not to lose his remedy by action for such money or goods.

SECT. 2. Saving to the party grieved by such deceit, such remedy by way of action or otherwise, of and for the same money, goods and chattels so obtained, as he might have had, if this act had never been made; any thing in the same contained to the contrary, in any wise notwithstanding.

CHAP. XVI.

An act against the embezzling of Records.

(Passed the 10th of November, 1789.)

BE it enacted by the General Assembly, That if any record, or parcel of the same writ, return, panel, process, or warrant of attorney, in any court within this Commonwealth be willingly stolen, taken away, withdrawn, or avoided, by any clerk, or by any other person, because whereof, any judgment shall be reversed, such stealer, taker away, withdrawer, or avoider, their procurers, counsellors and abettors, being thereof indicted, and duly convicted, by their own confession, or by inquest to be taken of lawful men, shall be judged for felons, and shall incur the pain of felony.

Felony to steal or procure to be stolen any record, writ or process whereby any judgment shall be reversed.

CHAP. XVII.

An act repealing a part of the ordinance by which certain English Statutes were declared to be in force within this Commonwealth.

(Passed the 25th of November, 1789.)

SECT. 1. WHEREAS by an ordinance of convention, intituled "An ordinance to enable the present magistrates and officers to continue the administration of justice, and for settling the general mode of proceedings in criminal and other cases, till the same can be more amply provided for;" it is among other things enacted, that "all statutes or acts of Parliament made in aid of the common law, prior to the fourth year of the reign of king James the first, and which are of a general nature, not local to that kingdom, shall be the rule of decision, and shall be considered as in full force, until the same shall be altered by the legislative power of this colony;" and whereas the good people of this Commonwealth may be ensnared by an ignorance of acts of Parliament, which have never been published in any collection of the laws; and it has been thought adviseable by the General Assembly during

Preamble.

their present session, specially to enact such of the said statutes as to them appeared worthy of adoption, and did not already make a part of the public code of the laws of Virginia.

English statutes no longer to be in force in this state.

Be it enacted by the General Assembly, That so much of the above recited ordinance, as relates to any statute or act of Parliament, shall be and is hereby repealed; and that no such statute or act shall have any force or authority within this Commonwealth.

All rights arising under them and offences committed against them before the commencement of this act to remain in the same condition.

SECT. 2. But all rights arising under any such statute or act, and all crimes and offences committed against the same, at any time before the commencement of this act, shall remain in the same condition in all respects, as if this act had never been made. This act shall commence in force on the first day of January, in the year one thousand seven hundred and ninety-one.

When this act commences in force.

CHAP. XVIII.

An act for amending the acts concerning the Court of Appeals.

(Passed the 19th of November, 1789.)

No question to be removed by adjournment before the court of appeals.

SECT. 1. *BE it enacted by the General Assembly*, That it shall not be lawful for the high court of chancery, or the general court, to remove before the court of appeals, by adjournment, any question, matter or thing whatsoever.

The present court to take cognizance of all business depending before the former.

SECT. 2. The court of appeals as it is now constituted by law, shall have jurisdiction and take cognizance of all suits, motions and process, which were depending before the court of appeals on the twenty-second day of December, in the year of our Lord one thousand seven hundred and eighty-eight, and are yet undetermined.

The salaries of the judges.

SECT. 3. The salary of a judge of the court of appeals shall be the same, and shall be paid in the same manner, with the salary of a judge of the general court

SECT. 4. So much of the ninth section of the act, intituled "An act for amending the act intituled an act constituting the court of appeals," as provides for the case of a judge of the court of appeals, being interested in any suit, is hereby repealed.

How suits to be tried where the judges of the court of appeals are interested.

SECT. 5. Although one or more of the judges of the court of appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other judges, if there be a number of judges not so interested, sufficient to constitute a court.

SECT. 6. If on an appeal from the high court of chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the judges of the court of appeals be interested, then in the former case, the remaining judges of the court of appeals not so interested, and as many of the judges of the general court not so interested, as will make the number at least five; and in the latter case, so many of the judges of the general court, not so interested, as will make the number five at least, shall constitute a court for the purpose aforesaid.

SECT. 7. If on an appeal, writ of error or supersedeas to or from any judgment or order made in a district court, or any question concerning the same, or concerning any process to be directed thereto, a majority or all of the judges of the court of appeals be interested, then in the former case, the remaining judges of the court of appeals not being interested, the judge of the high court of chancery not being so interested, and as many of the judges of the general court, who are not so interested, and did not render the judgment or direct the order, as will make the number five at least, shall constitute a court for the purpose aforesaid; and in the latter case, no judge of the court of appeals shall sit; but any five of the judges last mentioned, and not so disqualified as aforesaid, shall constitute a court.

SECT. 8. If on a writ of error or supersedeas to any judgment or order made in the general court, or any question concerning the same, or any process to be directed thereto, a majority or all of the judges of the court of appeals be interested therein, then in the former case, the remaining judges of the court of appeals, not being so interested, together with the judge of the high court of chancery, and as many of the judges of the general court, not being so interested, as will make the number five at least, shall constitute a court for the purpose aforesaid.

SECT. 9. Whensoever a majority or all of the judges of the court of appeals shall be interested in any of the cases abovementioned, the same shall be entered of re-

cord in the said court; and the clerk thereof shall thereupon issue a summons to the judge of the high court of chancery, and judges of the general court, requiring them if not disqualified as aforesaid, to attend at the capitol in the city of Richmond, on the twentieth day of June, or if that happen on a Sunday, then on the day following, or on the twentieth day of November, or if that happen on a Sunday, then on the day following, whichsoever shall first happen, and stating the names of the parties and the court whose decision is to be examined.

When and where the judges are to meet for that purpose,

Sect. 10. Each judge not disqualified as aforesaid, shall be allowed for his attendance twenty shillings per day, and for travelling to and from the city of Richmond, two dollars for every twenty miles.

allowance to them for their attendance and travelling.

Sect. 11. A court constituted in any of the cases above described, shall hear, determine and finally decide, all suits, process, matters and things submitted to their cognizance and jurisdiction aforesaid, and the judgment, decree, sentence or order of the said court, shall be enforced and executed by process from the clerk of the court of appeals, in the same manner as if it had been rendered or made by the court of appeals itself.

How their judgments are to be enforced.

Sect. 12. Whensoever any appeal, writ of error or supersedeas shall be granted, and a transcript of the record be not sent to the court, on or before the second term of the court of appeals, after the same shall have been granted, such appeal, writ of error or supersedeas shall be dismissed, unless good cause be shewn to the contrary.

When records, on appeals, &c. are to be sent up to the court of appeals.

Sect. 13. After the dismission of an appeal, or writ of error, or supersedeas in the court of appeals, high court of chancery, general court, or any district court, no appeal, writ of error, nor supersedeas shall be allowed.

Consequence of the dismission of an appeal, writ of error, &c.

Sect. 14. So much of all acts, as comes within the purview of this act, is hereby repealed.

CHAP. XIX.

An act against Forgery.

(Passed the 25th of November, 1789.)

Forgery, of what deeds, &c. felony without benefit of clergy.

BE it enacted by the General Assembly, That if any person shall falsely make, forge or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or willingly act or assist in the false making, forging or counterfeiting, any deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, or any acquittance or receipt either for money or goods, with intention to defraud any person whatsoever, or shall utter or publish as true any false, forged or counterfeited deed, will, testament, bond, writing obligatory, bill of exchange, promissory note for payment of money, indorsement or assignment of any bill of exchange or promissory note for payment of money, acquittance or receipt either for money or goods, with intention to defraud any person, knowing the same to be false, forged or counterfeited; then every such person being thereof lawfully convicted according to the due course of law, shall be deemed guilty of felony, and suffer death as a felon without benefit of clergy.

CHAP. XX.

An act concerning the lost deeds, wills, records, and other writings of the county of Henrico.

(Passed the 25th of November, 1789.)

Preamble

SECT. 1. WHEREAS by an act of the General Assembly intitled "An act for the relief of persons who have been or may be injured by the destruction of the records of county courts," and made among other purposes for perpetuating the testimony of witnesses in relation to any deed, will, inventory or other writing recorded in the county courts, where the original is lost, and no attested copy thereof can be produced, *it was enacted*, that it should be lawful for the governor with the advice of council, to issue one or more commissions as the

case might require, under the seal of the Commonwealth, to nine able and discreet persons directed, giving them or any three or more of them full power and authority to meet at some convenient place by them to be appointed, and to adjourn from time to time as they shall think fit, and to summon, hear and examine all witnesses at the instance of any person whatsoever touching the premises, and to take their depositions in writing, and to return the same with such commission or commissions to the executive; which depositions were by them to be laid before the General Assembly at the next session; to the end, that such effectual relief might be given to the sufferers by the loss of the said records as should seem just and reasonable.

And whereas a commission hath issued under the seal of the Commonwealth to Samuel Duval and eight others of the county of Henrico directed, pursuant to the said act, who have made a return of their proceedings in the premises, whereby it doth appear that they have examined divers witnesses to sundry deeds, wills and other matters, and that the several deeds, wills and other matters have been well and sufficiently proved:

Proofs of the lost records of Henrico county to be given in evidence.

Be it enacted by the General Assembly, That from and after the passing of this act, the proofs of the several possessions, purchases, deeds, wills and other matters in the return aforesaid of the said commissioners mentioned, shall and may be given in evidence in any court of law or equity, and shall avail for the benefit and advantage of all persons claiming under them, as much as the same can or aught to avail:

Copies of the wills and deeds,

SECT. 2. And it shall and may be lawful for the clerk of the said county of Henrico to record the several copies of wills and deeds in the said return mentioned, which have been proved to be true copies, though not attested by any sworn clerk.

and the commissioners return, to be recorded by the clerk of Henrico,

allowance to him therefor.

SECT. 3. And it shall be the duty of the court of the said county of Henrico, to cause the return aforesaid, to be entered by the clerk thereof, in some book of office to him belonging; for which service, the said court shall determine what is a reasonable compensation to the said clerk, to be demanded as other fees are from the persons interested, the said court having regard to the fee bill.

CHAP. XXI.

An act reducing the Taxes of the present year.

(Passed the 27th of November, 1789.)

Revenue taxes becoming due 1st November 1789,

and the new taxes, arising between that day and 1st of November 1790, reduced one fourth.

SECT. 1. *BE it enacted by the General Assembly*, That all taxes which became due under any law of revenue, whether on lands, slaves or other property, on the first day of November, in the year one thousand seven hundred and eighty-nine, and all taxes which have arisen or shall arise since that day before the passing of this act, or shall arise after the passing of this act until the first day of November, in the year one thousand seven hundred and ninety, under the act intituled "An act imposing new taxes," shall be reduced one fourth below the amount of all such taxes, as fixed by the act of the last session of Assembly, intitled "An act for preventing impositions in the collection of taxes," that is to say, one half below the amount of all such taxes, as fixed by the aforesaid laws of revenue, and the said act "imposing new taxes."

Surplus to be restored where the full amount has been received.

SECT. 2. All sheriffs, collectors, clerks, and public officers are required in the collection and receipt of the abovementioned taxes, to govern themselves according to the reduction aforesaid, and where more than the reduced amount aforesaid shall have been received, to restore the surplus thereof to the person or persons intitled thereto.

Certain taxes excepted.

SECT. 3. Nothing herein before contained, shall be construed to extend to the taxes imposed by an act passed at the October session, in the year one thousand seven hundred and eighty-four, intitled "An act to explain and amend the act to levy certain taxes in aid of the public revenue;" to the fees of the register's office, or to any tax on tobacco or billiard tables.

What warrants receivable in discharge of the taxes so reduced,

SECT. 4. Any warrants heretofore issued, or which shall hereafter issue for the salaries of the officers of civil government, for interest on the certificates granted to the officers and soldiers, land and naval, on continental and state establishments for their arrears of pay and depreciation, for pensions heretofore granted and remaining unpaid, for the contingent expences of government, for the interest of the state loan office debt, and of the paper money of this commonwealth funded, for the expences of criminal prosecutions, except for guards in the respective

counties and corporations, to apprehenders of horse-stealers, for slaves executed, for the shares in the Potowmack and James River companies, for the post at the point of fork and the lunatic hospital, shall be receivable as specie in discharge of any of the taxes so reduced as aforesaid, which became due on the first day of November one thousand seven hundred and eighty-nine, or which shall become due before the first day of November in the year one thousand seven hundred and ninety. And the several sheriffs and collectors upon the payment of such warrants into the treasury, shall have credit for the same accordingly. *Provided nevertheless*, that specie only shall be receivable from the clerks of the several courts, for discharge of the several taxes to be collected by them.

Except of those, collected by the clerks of courts.

When the taxes to be distrained for,

SECT. 5. No distress shall be made for any tax which became due on the first day of November, in the year one thousand seven hundred and eighty-nine, until the first day of May, in the year one thousand seven hundred and ninety.

and when and how to be accounted for, and paid.

SECT. 6. All the taxes so received as aforesaid, shall be accounted for and paid in the same manner, and under the same penalties, as the laws, under which they respectively arise, prescribe, except that the revenue taxes may be accounted for and paid into the public treasury at any time before the first day of October, in the year one thousand seven hundred and ninety.

SECT. 7. So much of all and every act as comes within the purview of this act, is hereby repealed.

CHAP. XXII.

An act concerning the Benefit of Clergy.

(Passed the 27th of November, 1789.)

Benefit of clergy, in what offences, not allowed to principals in the first degree,

SECT. 1. *BE it enacted and declared by the General Assembly*, That the benefit of clergy shall not be allowed to principals in the first degree, First, in murder; secondly, or in burglary; thirdly, or in arson at common law; fourthly, or for the wilful burning of any court-house, or county or public prison, or of the office of the clerk of any court within this Commonwealth; fifthly, or for the felonious taking of any goods or chattels out

of any church, chapel or meeting-house belonging thereto; sixthly, or for the robbing of any person or persons in their dwelling houses or dwelling place, the owner or dweller in the same house or dwelling place, his wife, his children, or servants, then being within and put in fear and dread by the same; seventhly, or for the robbing of any person or persons in or near about any highway; eighthly, or for the felonious stealing of any horse, gelding or mare; ninthly, or for the felonious breaking of any dwelling house by day, and taking away of any goods or chattels, being in any dwelling house, the owner or any person being therein and put in fear.

or in the second degree;

Sect. 2. The benefit of clergy shall not be allowed to principals in the second degree, in any of the cases abovementioned.

In what offences, not allowed to accessaries before the fact;

Sect. 3. It shall not be allowed to accessories before the fact, first, in murder; secondly, or burglary; thirdly, or arson at common law; fourthly, or for the wilful burning of any court house or county or public prison, or of the office of the clerk of any court within this Commonwealth: fifthly, or for the robbing of any person or persons in their dwelling houses or dwelling places, the owner or dweller in the same dwelling house or dwelling place, his wife, his children or servants then being within and put in fear and dread by the same; sixthly, or for the robbing of any person or persons in or near about any highway.

When allowed, unless expressly taken away by act of assembly;

Sect. 4. It shall be allowed to principals and accessaries in all offences which would otherwise be without clergy, whether the same be newly created by any act of the General Assembly, or exist under the common law, unless it be taken away by the express words of some act of assembly.

How often.

Sect. 5. It shall not be allowed to any person more than once, except in the following case, that is to say: Whensoever any person shall have been admitted to the benefit of clergy, such admission shall not operate as a pardon or discharge for other offences of a clergyable nature, committed by him before that admission to the benefit of clergy, but he shall be again allowed the benefit of clergy for every other offence of a clergyable nature committed by him before that admission to the benefit of clergy, and shall be burned in the hand for every such offence.

Sect. 6. But if any person who shall have been once

admitted to the benefit of clergy, shall before that admission have committed any offence, in which the benefit of clergy is not allowed by law, or shall after that admission, commit any offence in which the benefit of clergy is even allowed by law, he shall suffer death without the benefit of clergy.

Females intitled to it, in like manner as males,

SECT. 7. A female shall in all cases receive the same judgment and stand in the same condition with respect to the benefit of clergy, as a male

And slaves as free negroes or mulattoes.

SECT. 8 A slave shall in all cases receive the same judgment and stand in the same condition with respect to the benefit of clergy, as a free negro or mulatto

Not taken away by this act, when expressly allowed by any other, or allowed, when expressly taken away.

SECT. 9. Nothing in this act contained shall be construed to take away the benefit of clergy, from any offence, in which it is now allowed by any act of the General Assembly, or to allow it in any offence, from which it is now expressly taken away by any act of the General Assembly.

CHAP. XXIII.

An act giving damages against witnesses who fail to appear according to summons.

(Passed the 28th of November, 1789.)

Witnesses failing to appear, subject to damages, at the suit of the party injured.

BE it enacted by the General Assembly, That if any person upon whom process out of any court within this Commonwealth, shall be served to testify or depose concerning any cause or matter depending therein, shall not appear according to the tenor of the said process, not having a lawful and reasonable excuse, let or impediment to the contrary, such person so making default, shall yield such recompence to the party grieved, as in an action on the case founded upon this act, shall be awarded and adjudged according to the loss and hindrance which the party who procured such process shall sustain, by reason of the non-appearance of said witness.

CHAP. XXIV.

An act to provide against the appropriation of money, by resolution of the two Houses of Assembly.

(Passed the 3d of December, 1789.)

WHEREAS, in the passing of those legislative acts, which are known under the name of laws as distinguished from other acts, which are commonly called Resolutions, certain forms and solemnities have been established for the purpose of obtaining that deliberation which the matter of laws generally require; and it hath been the practice of the General Assembly, to grant large sums of money by resolutions, which are confirmed on a single reading. Preamble.

Be it enacted by the General Assembly, That no sum of money shall be voted for any use whatsoever by a resolution only, except where, by some previous law, a sum of money shall have been appropriated, and by such resolution, the whole, or a part thereof, may be particularly applied, in pursuance of the said law. No money to be voted by resolution of the Assembly, unless there hath been an appropriation by law.

CHAP. XXV.

An act to revive in part an act intitled, "An act to increase the reward for killing wolves in certain counties."

(Passed the 4th of December, 1789.)

BE it enacted by the General Assembly, That the act intituled "An act to increase the reward for killing wolves in certain counties," which expired in the year one thousand seven hundred and eighty-five, shall be, and the same is hereby revived so far as the same respects the counties of Hampshire, Albemarle, Amherst, Fluvanna, Orange, Culpepper, Berkeley, Loudoun, Fairfax, Prince William, Buckingham, Pendleton, Frederick, Shenandoah, Fauquier, Hardy, and Charlotte; and shall continue and be in force from and after the passing of this act, for and during the term of three years, and from thence to the end of the next session of Assembly. Act increasing the reward for killing wolves, revived as to certain counties.

CHAP. XXVI.

An act against such as shall procure or commit wilful Perjury, and against Embracery.

(Passed the 1st of December, 1789.)

Suborners of witnesses, how punished;

SECT. 1. *BE it enacted by the General Assembly*, That all and every person and persons who shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt perjury in any matter or cause whatsoever now depending, or which hereafter shall depend in suit and variance by any writ, action, bill, complaint or information in any wise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts or damages, in any of the courts of this Commonwealth, or shall likewise unlawfully and corruptly, procure or suborn any witness or witnesses which shall be sworn to testify *in perpetuam rei memoriam*, or any criminal prosecution, or in any examination or controversy before a justice or justices of the peace, or before any commissioners appointed to take depositions, that then every such offender or offenders shall for his, her or their said offence, being thereof lawfully convicted, be adjudged to pay a fine not exceeding two hundred pounds, and to suffer imprisonment for the space of one year without bail or mainprize.

Persons guilty of perjury, how punished;

SECT. 2. *And be it further enacted*, That if any person or persons, either by the subornation, unlawful procurement, sinister persuasion, or means of any other, or by their own act, consent or agreement, wilfully and corruptly commit any manner of wilful perjury by his or their deposition, in any of the courts of this Commonwealth, or before any justice or justices of the peace, or before any commissioners appointed to take depositions, or being examined in *perpetuam rei memoriam*, that then every person and persons so offending, and being thereof duly convicted, shall for his or their said offence, be adjudged to pay a fine not exceeding one hundred pounds, and to suffer imprisonment by the space of six months without bail or mainprize, and the oath of such person or persons so offending in any of the cases of perjury or

their oaths not to be received in any court.

subornation of perjury in this act mentioned, from thenceforth shall not be received in any court within this Commonwealth, until such time as the judgment given against such person or persons shall be reversed.

Penalty on a juror taking any thing for giving his verdict.

Sect. 3. If any juror upon any inquest whatsoever, shall take any thing by himself, or another to give his verdict, and shall be thereof convicted, such juror shall not thereafter be put on any jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him, who will sue for the same, and the other half to the Commonwealth.

Embracers, how punished.

Sect. 4. Every embracer who shall procure any juror to take gain or profit, shall be punished by fine not exceeding two hundred pounds, and imprisonment not exceeding one year.

CHAP. XXVII.

An act to fix the time of holding elections for Representatives to Congress.

(Passed the 1st of December, 1789.)

WHEREAS the act intitled, "An act for the election of representatives, pursuant to the constitution of government of the United States," is confined to the election of representatives holden on the second day of February, which was in the year of our Lord one thousand seven hundred and eighty-nine.

Elections of representatives in Congress when to be holden;

Be it enacted by the General Assembly, That the above recited act shall be extended to future elections, with the alterations and amendments following, that is to say: First, the election of representatives shall be holden on the first Monday in September, in the year one thousand seven hundred and ninety, and one thousand seven hundred and ninety-two, and in every second year thereafter; and the two years for which any future representative may serve, shall bear date from the second day of February, in the year one thousand seven hundred and ninety-one, one thousand seven hundred and ninety-three, and in every second year thereafter: Secondly, When the executive authority of this state, shall in pursuance of the constitution of the United States issue a

Periods from which future representatives are to serve;

Elections to supply vacancies, when and how to be holden.

writ of election to fill any vacancy happening in the representation thereof, the place and manner of holding such election, and all the rules and regulations relating thereto shall be the same, as are prescribed by the above recited act.

CHAP. XXVIII.

An act concerning jeofails and certain proceedings in civil cases.

(Passed the 4th of December, 1789.)

For what defects in process or pleading judgments shall not be reversed.

SECT. 1. *BE it enacted by the General Assembly*, That no judgment after a verdict of twelve men, shall be stayed or reversed, for any defect or fault in any writ original or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of attorney; or for the appearance of either party being under the age of twenty-one years, by attorney, if the verdict be for him and not to his prejudice; or for not alleging any deed, letters testamentary, or commission of administration, to be brought into court: or for omission of the words "with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quantity of merchandise, day, month or year in the declaration, or pleading, (the name, sum, quantity or time being right in any part of the record or proceeding;) or for omission of the averment, "this he is ready to verify," or "this he is ready to verify by the record," or for not alledging as appeareth by the record, or for omitting the averment of any matter, without proving which, the jury ought not to have given such a verdict; or for not alledging that the suit or action is within the jurisdiction of the court; or for any informality in entering up the judgment by the clerk; neither shall any judgment entered upon confession, or by nil dicit, or non sum informatus, be reversed, nor a judgment after enquiry of damages, be stayed or reversed, for any omission or fault, which would not have been a good cause to stay or reverse the judgment if there had been a verdict.

SECT. 2. Where a demurrer shall be joined in any action, the court shall not regard any other defect or imperfection in the writ, return, declaration or pleading, than what shall be specially alledged in the demurrer as causes thereof, unless something so essential to the action or defence, as that judgment, according to law, and the very right of the cause, cannot be given, shall be omitted. What defects to be regarded in case of demurrers.

SECT. 3. Private acts of Assembly may be given in evidence without pleading them specially. Private acts of Assembly may be given in evidence.

SECT. 4. Juries de medietate linguæ may be directed by the court to be summoned. Juries de medietate linguæ.

SECT. 5. Jurors knowing any thing relative to the point in issue, shall disclose the same in open court. Jurors, how to give evidence; how punished for a contempt of the court.

SECT. 6. Any juror guilty of a contempt to the court, shall be fined by the court any sum not exceeding ten pounds.

SECT. 7. Papers read in evidence though not under seal, may be carried from the bar by the jury. Juries may take with them papers tho' not under seal;

SECT. 8. No sheriff shall converse with a juror but by order of the court. When sheriff may converse with them.

SECT. 9. Interpreters may be sworn, truly to interpret, when necessary. Interpreters may be sworn.

SECT. 10. Every person desirous of suffering a nonsuit on trial, shall be barred therefrom, unless he do so before the jury retire from the bar. Nonsuits, when to be suffered.

SECT. 11. Not more than two new trials shall be granted to the same party in the same cause. New trials, how many allowed.

SECT. 12. After issue joined in an ejectment on the title only, no exception of form or substance shall be taken to the declaration in any court whatsoever. Exceptions to declarations in ejectment, when to be made.

SECT. 13. Any instrument to which the person making the same, shall affix a scroll by way of seal, shall be adjudged and holden to be of the same force and obligation, as if it were actually sealed. Scrolls by way of seals, valid.

SECT. 14. If in detinue the verdict should omit price or value, the court may at any time award a writ of enquiry to ascertain the same. Verdicts in detinue, what omissions, in them may be remedied and how,

SECT. 15. If on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error, but the plaintiff shall be barred of his title to the things omitted. Omission in them, of any articles in the count, not to vitiate them.

SECT. 16. Where there are several counts, one of which is faulty, and intire damages are given, the verdict shall be good; but the defendant may apply to the court, to instruct the jury to disregard such faulty count. Where one, of several counts, is faulty, the verdict shall be good.

Judgment confessed, effect of it.

SECT. 17. A judgment on confession, shall be equal to a release of errors.

SECT. 18. For removing all doubts concerning the courts, to which this act may apply:

These regulations to be the rules of decision in all courts within this Commonwealth.

Be it further enacted, That all things herein contained, shall be the rules of decision and proceeding in all courts whatsoever within this Commonwealth.

CHAP. XXIX.

An act authorizing deputy sheriffs in case of the death of their high sheriffs to collect and distrain for arrearages of Taxes.

(Passed the 7th of December, 1789.)

Preamble.

WHEREAS it is represented that many sheriffs have departed this life before the expiration of the time for which they had by law a right to act, and before their deputy sheriffs had made the collection of the public taxes, which became due in the life time of the high sheriffs; and it is doubted whether the deputies in such cases, have power to collect, and distrain for the taxes:

Deputy sheriffs to collect the taxes in case of the death of their principals.

Be it therefore enacted by the General Assembly, That it shall and may be lawful for all deputy sheriffs, to collect and make distress for any taxes, which may be due at the time of the death of their high sheriffs, and shall be accountable for the same in like manner, as if the sheriff had lived.

CHAP. XXX.

An act declaring the mode of proceeding in certain criminal cases.

(Passed the 9th of December, 1789.)

Additions of defendants estate, degree, &c. in certain actions and indictments;

SECT. 1. FOR declaring the course of proceeding in certain criminal cases, *Be it enacted by the General Assembly*, That in every original writ of actions personal,

and in indictments, in which the exigent shall be awarded, in the names of the defendants, in such writs original and indictments, additions shall be made of their estate or degree or mystery, and of the counties of which they were or be, or in which they be or were conversant, and if on the process upon the said original writs or indictments in which the said additions be omitted, any outlawries be pronounced, that they be void, frustrate and holden for none: and before the outlawries be pronounced, the said writs and indictments shall be abated by the exception of the party, wherein the said additions be omitted.

Omission of them, effect of.

Surplusage of additions, not to abate such writs, &c.

Sect. 2. *Provided always*, That though the said writs of actions personal be not according to the records and deeds by reason of surplusage of the additions aforesaid, for that cause they shall not be abated.

Jurors how challenged, in inquests for the commonwealth;

Sect. 3. Whensoever an inquest be about to be taken in any court, in which inquest the Commonwealth is a party, if he who appears and sues in behalf of the Commonwealth, will challenge any of the jurors, he shall assign a cause certain for his challenge, and the truth of such challenge shall be judged of by the court; and if such challenge be sufficient, the juror shall be rejected, or if insufficient he shall be admitted, and in either case the inquest shall be proceeded in.

How many may be peremptorily challenged, by persons arraigned for treason or felony.

Sect. 4. No person arraigned for treason, shall be admitted to a peremptory challenge, above the number of twenty-four, nor shall any person arraigned for murder or felony, be admitted to a peremptory challenge above the number of twenty.

Words "force and arms" in indictments, &c. not necessary.

Sect. 5. In any inquisition or indictment, the words "force and arms," or any particular words descriptive of any particular kind of force or arms, shall not of necessity be put or comprized.

Where offender to be examined, when one, feloniously stricken or poisoned in one county dies in another.

Sect. 6. Where any person shall be feloniously stricken or poisoned in one county, and shall die of the same stroke or poisoning in another county, the offender shall be examined according to law, by the court of the county where such stroke was given or poison administered, and he shall be tried in the court of the district in which such county lies.

Where accessaries shall be examined and tried.

Sect. 7. In like manner an accessary to a murder or felony committed, shall be examined by the court of that county and tried in the court of that district, in which he became accessary, and shall answer upon his arraign-

ment, and receive such judgment, order, execution, pains and penalties, as are used in other cases of murder or felony.

Approvers, in no cases to be admitted.

SECT. 8. Approvers shall never be admitted in any case whatsoever.

Actions, &c. on penal laws, within what time to be commenced.

SECT 9. All actions, suits, bills, indictments or informations which shall be had, brought, sued or exhibited upon any penal act of Assembly, not affecting life or limb made or to be made, shall be had, brought, sued or exhibited within one year next after the offence committed against such penal act and not after.

A person arraigned for treason or felony, standing mute, or peremptorily challenging more jurors than he legally may, or outlawed, to be considered as convicted.

SECT. 10 Whensoever in treason or felony, any person shall stand mute on his arraignment, or persists after being admonished by the court, in not answering to the indictment, or in peremptorily challenging above the number of jurors, which by law he may be allowed to challenge peremptorily, or shall be outlawed, he shall be considered as convicted; and the same judgment and execution, disabilities and forfeitures shall take place and be awarded, as if he had been convicted by verdict or confession of the crime.

Process in capital or other penal cases.

SECT. 11. Process in capital or other penal cases shall be the same, as hath been hitherto practised according to law.

None to take the goods, of any arrested on suspicion of treason, murder or felony, until lawfully forfeited, Penalty therefor, how recoverable.

SECT. 12. No sheriff, under sheriff, nor escheator, nor any other person, shall take or seize the goods of any person arrested or imprisoned for suspicion of treason, murder or felony before that the same person so arrested and imprisoned be convicted or attainted of such treason, murder or felony according to law, or else the said goods be otherwise lawfully forfeited, upon pain to forfeit double the value of the goods so taken, to him that is so hurt in that behalf, by action of debt to be pursued in any court of record.

Estates, real and personal, of any attainted of treason, murder or felony, to descend and pass as estates of intestates. No attainder to work a corruption of blood.

SECT. 13. Whensoever any person shall happen to be attainted, convicted or outlawed of any treason, misprision of treason, murder or felony whatsoever, there shall in no case be a forfeiture to the Commonwealth of dower or of lands, slaves, or personal estate, but the same shall descend and pass in like manner as is by law directed in case of persons dying intestate; nor shall any attainder work a corruption of blood, any law or usage to the contrary in any wise notwithstanding.

Reservation of the rights of all persons

SECT. 14. Saving to all and every other person and persons, bodies politic and corporate their heirs and suc-

cessors, and to every of them (other than to such offender, as shall be attainted, convicted or outlawed) all such right, title, interest, entry, leases, possession, condition, profit, commodity and hereditaments, as they or any of them had, or should, or of right ought to have, before or at the time of the said attainder, conviction or outlawry. (other than the offenders) to estates of those attainted.

Sect. 15. If any private person have any prisoner in his keeping, arrested for suspicion of felony, treason or murder, and the person that is so arrested, escape by negligent keeping, before that he be brought to the jail, then the person from whom such prisoner so escaped, shall be liable to a fine, on being found guilty on an indictment in the court of that district in which such escape was made. Private persons suffering any arrested for felony, &c. to escape, how punished.

Sect. 16. The judges of the court of appeals, high court of chancery and general court shall be conservators of the peace throughout the Commonwealth; and the justices of the peace in each county and corporation shall be conservators of the peace within their several counties and corporations respectively, and the said judges and justices within the limits aforesaid respectively shall have power to demand of such persons, as are not of good fame, sufficient surety and mainprize of their good behaviour. Judges of the Superior courts conservators of the peace, throughout the commonwealth and justices within their counties, &c. may require surety of good behaviour of those of bad fame.

CHAP. XXXI.

An act for establishing certain inspections of Tobacco.

(Passed the 5th of December, 1789.)

Sect. 1. *BE it enacted by the General Assembly*, That inspections of tobacco shall be and the same are hereby established on the lands of Matthew Walton, on the south side of Salt river, at the first yellow bank below the mouth of Long Lick creek, in the county of Nelson, to be called and known by the name of Walton's warehouse; on the lands of Richard Parker on the Beech fork, at the mouth of Cartwright's creek, in the county of Nelson, to be called and known by the name of Parker's warehouse; on the lands of William Barksdale, in the town of Petersburg, to be called and known by the Inspections of tobacco established on Salt river, and the Beech fork, in Nelson county; on Barksdale's

Bolling's, name of Barksdale's warehouse; on the lands of Robert Bolling, jun. adjoining his present dwelling-house in the town of Petersburg, to be called and known by the name of West-hill warehouse; on the lands of Alexander Glass Strachan, on High street, in the town of Petersburg, to be called and known by the name of High-street warehouse; on the lots of Thomas Shore and George Wilson, in the town of Petersburg, to be called and known by the name of West Brook warehouse; on the lands of John Cockey Owen and David Baird, at or near the mouth of Stuart's creek, on the north side of the Beech fork, in the county of Nelson, to be called and known by the name of Stuart's creek warehouse; on the lands of Bennett Henderson, in the county of Albemarle, at the place called the Shallows, on the Rivanna river, to be called and known by the name of Henderson's warehouse; on the lands of Wilson Cary Nicholas, at the mouth of Ballenger's creek, in the county of Albemarle, to be called and known by the name of Nicholas's warehouse; and at Morgan's Town, on Monongahela river, in the county of Monongalia, to be called and known by the name of Morgan-Town warehouse; the proprietors whereof shall build the same at their own expence:

Strachan's,

and Shore's & Wilson's lands in Petersburg; on Stuart's creek in Nelson county;

at the Shallows on the Rivanna river, and at Ballenger's creek in Albemarle county; and on Monongahela river, in Monongalia county; warehouses, at whose expence to be built.

Salaries of the inspectors.

Sect. 2. There shall be allowed and paid annually to each of the inspectors at Walton's warehouse, the sum of twenty-five pounds; to each of the inspectors at Parker's warehouse, the sum of twenty-five pounds; to each of the inspectors at Barksdale's warehouse, the sum of sixty pounds; to each of the inspectors at West-hill warehouse, the sum of sixty pounds; to each of the inspectors at High-street warehouse, the sum of sixty pounds; to each of the inspectors at West-Brook warehouse, the sum of sixty pounds; to each of the inspectors at Stuart's creek warehouse, the sum of twenty-five pounds; to each of the inspectors at Henderson's warehouse, the sum of thirty pounds; to each of the inspectors at Nicholas's warehouse, the sum of forty pounds; and to each of the inspectors at Morgan-Town warehouse, the sum of fifteen pounds for their salary.

No deficiency to be paid by the public where a sufficiency of tobacco is not taken.

Sect. 3. *Provided always*, That if the quantity of tobacco inspected at the said warehouses, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

Houses with fire places, not be built within a certain distance of the warehouses, those in Petersburg excepted.

SECT. 4. It shall not be lawful for the proprietor of the land whereon an inspection of tobacco is hereby established, or those hereafter claiming under them, to build or suffer to be built, any house with a fire-place therein, on his or their land, within one hundred yards of such warehouse. *Provided always*, That nothing herein contained shall be construed to prevent the proprietors of the lands in the town of Petersburg, whereon inspections of tobacco are hereby established, from building houses with fire places therein on their respective lands.

In what manner those in Petersburg to be built.

SECT. 5. *And be it further enacted*, That the proprietors of the lands or lots in the town of Petersburg, whereon inspections of tobacco are hereby established, shall respectively build the warehouses for the reception of tobacco of stone or brick, to be covered with slate or tile, and make the gates of iron. No tobacco shall be received for inspection, at either of the said warehouses in Petersburgh, nor shall any inspectors be appointed for the same, until the court of Dinwiddie county shall be of opinion, and enter the same of record, that the warehouses are built according to the directions of this act.

CHAP. XXXII.

An act for the cession of ten miles square, or any lesser quantity of territory within this state, to the United States, in Congress assembled, for the permanent seat of the general government.

(Passed the 3d of December, 1789.)

Preamble.

SECT. 1. WHEREAS the equal and common benefits resulting from the administration of the general government will be best diffused, and its operations become more prompt and certain, by establishing such a situation for the seat of the said government, as will be most central and convenient to the citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the Atlantic ocean, through the Chesepeake bay, as to the most direct and ready communication with our fellow-citizens in the western frontier; *And whereas* it appears to this Assembly, that a

situation combining all the considerations and advantages before recited, may be had on the banks of the river Patowmack, above tide water, in a country rich and fertile in soil, healthy and salubrious in climate, and abounding in all the necessaries and conveniencies of life, where in a location of ten miles square, if the wisdom of Congress shall so direct, the states of Pennsylvania, Maryland and Virginia may participate in such location;

Tract of country within this state ceded to the United States for the seat of the general government;

Be it therefore enacted by the General Assembly, That a tract of country, not exceeding ten miles square, or any lesser quantity, to be located within the limits of this state, and in any part thereof as Congress may by law direct, shall be, and the same is hereby for ever ceded and relinquished to the Congress and government of the United States, in full and absolute right, and exclusive jurisdiction as well of soil, as of persons, residing or to reside thereon, pursuant to the tenor and effect of the eighth section of the first article of the constitution of government of the United States:

reservation of the rights of individuals to the soil.

SECT. 2. *Provided* that nothing herein contained, shall be construed to vest in the United States, any right of property in the soil, or to affect the rights of individuals therein, otherwise than the same shall or may be transferred by such individuals to the United States.

When the jurisdiction of the law of this Commonwealth over the same to cease.

SECT. 3. *And provided also*, That the jurisdiction of the laws of this Commonwealth, over the persons and property of individuals residing within the limits of the cession aforesaid, shall not cease or determine, until Congress, having accepted the said cession, shall by law provide for the government thereof, under their jurisdiction, in manner provided by the article of the constitution before recited.

CHAP. XXXIII.

An act to amend an act, intituled "An act concerning public roads."

(Passed the 9th of December, 1789.)

Preamble.

SECT. 1. WHEREAS the act intitled "An act concerning public roads," has been found to be oppressive in some of the western counties of this Commonwealth,

by compelling the surveyors of the highways to keep all the said roads well cleared and smoothed, at least thirty feet wide:

Courts of certain counties to regulate certain public roads within the same.

Be it therefore enacted by the General Assembly, That it shall be the duty of the court of each of the counties of Ohio, Monongalia, Harrison, Randolph, Pendleton, Washington and Russell, and each of the counties within the district of Kentuckey, to cause the public roads within the same respectively, those excepted, which lead from one court-house to another, to be examined by three commissioners in the month of June or July in every year; and where it shall appear upon the report of the said commissioners unnecessary to keep any of the roads so examined as wide as is required by the above recited act, it shall be lawful for the said courts respectively to direct the surveyors thereof, to keep so much only of the said roads so examined in repair, according to law, as shall be expedient.

SECT. 2. *And whereas* doubts have arisen, who shall be considered as labouring tithables within the meaning of the above recited act;

Who to be considered as labouring tithables.

Be it further enacted, That from henceforth all male persons above the age of sixteen years, except the master or owner of two or more labouring tithables, the owner of ironworks, millers, ferrykeepers, and all such as the courts shall think proper to exempt through age or infirmity, shall be considered as labouring tithables; any act or acts, and especially the above recited act in any wise to the contrary notwithstanding.

CHAP. XXXIV.

An act providing record books for transcribing certain entries for land, within the district of Kentuckey.

(Passed the 10th of December, 1789.)

Preamble.

WHEREAS it is represented, that the funds established by an act of Assembly, intituled "An act for the preservation of the entries made for lands in the district of Kentuckey," for the purpose of procuring record books for transcribing the entries for lands mentioned in the said recited act, are not productive.

How record books for transcribing entries for lands in Kentuckey, to be provided.

Be it therefore enacted by the General Assembly, That the record books necessary for transcribing the said entries for lands, shall be furnished at the expence of each county respectively, and the justices of the several counties within the district of Kentuckey, are hereby authorised and directed to levy so much money as shall be necessary for the purpose aforesaid, at laying the next or any succeeding county levy.

CHAP. XXXV.

An act prescribing the mode of collecting the allowance to the commissioner of the High Court of Chancery.

(Passed the 11th of December, 1789.)

Preamble.

WHEREAS it hath been found by experience, that the appointment of a commissioner in the high court of chancery hath greatly contributed to the dispatch of business, and the accuracy of reports, and it is expedient that the allowance made for his services in each cause, should be collected in a manner different from what is prescribed by the act, intituled "An act for amending the several acts of the General Assembly concerning the High Court of Chancery:"

Fees of the commissioner of the court of chancery, how collected.

Be it enacted by the General Assembly, That the commissioner may issue his tickets for the sums allowed by the high court of chancery, for services performed by him under the orders of the said court, and deliver them to the respective sheriffs, at the same time the clerk of the said court is directed by law to deliver his tickets, and that the several sheriffs shall collect and account for them in the same manner and under the like penalties, and shall have the same allowance for collecting and for insolvencies as are prescribed in the case of the clerk of the said high court of chancery.

CHAP. XXXVI.

An act to amend the several acts of Assembly for keeping certain roads in repair.

(Passed the 9th of December, 1789.)

Districts on the turnpike roads, width and length of.

SECT. 1. FOR amending the several acts of Assembly for keeping certain roads in repair: *Be it enacted by the General Assembly*, that no district shall exceed three miles in width from the roads on which turnpikes are established, nor more than three miles in length; nor shall any person assigned to work on the said roads, be compelled to work on any other road, only one day in every year.

How many days in each year, every person to work on them.

SECT. 2. Every person residing within three miles of either of the said turnpike roads, and compelable by law to work on roads, shall work on the aforesaid road or roads, when summoned so to do, not exceeding three days in every year.

Overseers of them, where to reside: allowance to them for warning the people.

SECT. 3. Every overseer shall be resident in the district of which he is appointed overseer, or the adjacent district, and he shall be allowed twelve shillings for warning the people on the road in each year.

Receivers of the tolls, how their accounts to be kept: when to settle them and pay the money received; their wages:

SECT. 4. The receivers of the tolls shall keep a fair account of the daily receipts of money in a book to be provided for that purpose, and produce the same for the inspection of the treasurer when required, pay the money received by them to the treasurer, once in every month, and settle with the commissioners once in every three months, when each receiver shall be paid his wages for the preceding quarter by order of the treasurer.

One half of the tolls to be applied to repairing roads in Loudoun.

SECT. 5. One half of the money arising from the tolls, after paying the necessary wages of the toll-keepers and overseers, shall be applied towards repairing the roads within the county of Loudoun.

CHAP. XXXVII.

An act for establishing several new ferries, and for erecting a Toll-Bridge.

(Passed the 11th of December, 1789.)

Public ferries established,

SECT. 1. *BE it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say: from the lands of Charles Buck, in the county of Frederick, across the north fork of Shenandoah river, at the mouth of Passage creek, to the land of Isaac Hite, on the opposite shore, the price for a man three-pence three farthings, and for a horse the same: from the land of Thomas Buck, across the north fork of Shenandoah river, to the lands of George Harden & Rowley Smith, the price for a man three-pence three farthings, and for a horse the same: from the lands of Wilson Cary Nicholas, in the county of Albemarle, across Fluvanna river, to the land of John Hardy, on the opposite shore, in the county of Buckingham, the price for a man three-pence, and for a horse the same: from the land of John Harper, in the county of Mecklenburg, across Meherrin river, to his land on the opposite shore in the county of Lunenburg, the price for a man two-pence, and for a horse the same: from the lands of John Flin, in the county of Halifax, across Staunton river, to the lands of Thomas Hoards on the opposite shore, in the county of Charlotte, near the confluence of Dan and Staunton, the price for a man three-pence, and for a horse the same: from the lands of Isaac Williams, in the county of Harrison, across Ohio river, above and below the mouth of Muskingum, the price for a man six-pence, and for a horse the same: from the land of Josiah Pricket, in the county of Monongalia, across Monongahela river, to the opposite shore, the price for a man three-pence, and for a horse the same: from the land of Samuel Morton, in the county of Monongalia, across Big Sandy Creek, to the land of John Conner, sen. on the opposite shore, the price for a man three-pence, and for a horse the same: from the land of Robert Maxwell, in the county of Randolph, across Leading Creek, to the land of Jonas Friend, on the opposite shore, the price for a man three-pence,

across the rivers Shenandoah,

Fluvanna,

Meherrin,

Staunton,

Ohio,

and Monongahela and

Big Sandy,

and Leading creeks,

and for a horse the same: and from the land of Luther Martin, in the county of Hampshire, across Patowmack river, at the confluence of the north and south branches thereof, to the opposite shore in the state of Maryland, the price for a man four-pence, and for a horse the same. And for the transportation of wheel carriages, tobacco, cattle and other beasts, at the places aforesaid, the ferry keepers, except the said John Harper, may demand and take the following rates, that is to say: for every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise and the driver thereof, the same as for four horses; for every two wheel chaise or chair, the same as for two horses; for every hogshead of tobacco, as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one fifth part of the ferriage for one horse; and for every hog, one fourth part of the ferriage for one horse; and no more. The ferry keeper at Harper's ferry may demand and take for the transportation of every waggon, chariot, or other four wheel carriage and the driver thereof, one shilling; for every cart or two wheel carriage six-pence; for every hogshead of tobacco and the team and driver thereof, six pence; for every head of neat cattle, one penny, and for every sheep, hog or goat, one halfpenny:

and Patowmack river, and the rates for passing the same;

SECT. 2. If the ferry keeper at any of the said places shall presume to demand or receive, from any person or persons, greater rates than are hereby allowed, for the carriage or ferriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages demanded or received, and ten shillings, to be recovered with costs, before a justice of peace of the county where such offence shall be committed.

Penalty on ferry keeper demanding more than the rate,

how to be recovered.

SECT. 3. *And be it further enacted*, That it shall be lawful for the said John Harper to erect a bridge across Meherrin river, from his land in the county of Mecklenburg, to his land on the opposite shore, as near as may be to the ferry hereby established across the said river from his said land; and to demand and receive the same toll and rates for the passage of any person or thing, as is allowed by this act at his said ferry.

Toll-bridge to be erected across Meherrin river,

rates for passing the same.

CHAP. XXXVIII.

An act to appropriate the Public Revenue.

(Passed the 15th of December, 1789.)

Certain arrearages of taxes added to the aggregate fund;

SECT. 1. *BE it enacted by the General Assembly*, That the outstanding arrearages of the revenue taxes which became due on the first day of November one thousand seven hundred and eighty-seven, shall be added to those heretofore constituting the aggregate fund.

Warrants charged thereon;

SECT. 2. The said fund shall stand charged with the warrants still unpaid, which by the act of the last session intitled "An act to amend the several laws for appropriating the public revenue," were charged on the aggregate fund, and all warrants which by the said recited act were declared to be charged on the taxes which became due on the first day of November one thousand seven hundred and eighty-seven, together with the warrants issued or to be issued to foreign creditors, and still remaining unsatisfied. The warrants issued or to be issued by virtue of two decrees of the high court of chancery, against the treasurer of this Commonwealth, one on account of the lead mine, the other on account of the estate of John Earl of Dunmore, shall also be charged on the said aggregate fund

Facilities receivable in discharge of the taxes constituting it.

SECT. 3. *And be it further enacted*, That all warrants and other facilities, which have heretofore been receivable in discharge of the respective taxes which by this act constitute the aggregate fund, together with all warrants by this act chargeable thereon, and all warrants receivable in discharge of the revenue taxes of one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, shall also be receivable in discharge of the arrearages of the taxes which constitute the said aggregate fund.

One tenth of the said arrearages, appropriated to the sinking fund.

SECT. 4 *And be it further enacted*, That one-tenth of the said arrearages shall continue appropriated to the sinking fund; that proportion to be set apart from the specie or tobacco coming in, at the rates receivable by law, and disposed of under the direction of the executive, in aid of the said sinking fund.

Appropriation of taxes which became

SECT. 5. *And be it further enacted*, That the taxes which became due on the first day of November one

thousand seven hundred and eighty-eight, and all branches of revenue arising between that day and the first day of November one thousand seven hundred and eighty-nine, shall continue as before appropriated, and to the warrants issued in the year one thousand seven hundred and eighty-nine, for the services of the scouts and rangers, and be dischargeable, collected and accounted for in the same manner as directed by the aforesaid act:

due 1st November 1788, and arising between that day and 1st November 1789.

SECT. 6. *Provided* that no warrants to foreign creditors, other than those issued, under the apportionments of one thousand seven hundred and eighty-five, one thousand seven hundred and eighty-six, or, one thousand seven hundred and eighty-seven, shall be received in discharge of the impost now due, nor be entitled to any dividend of money collected therefor, nor shall any warrant whatsoever issued after the thirty-first day of December one thousand seven hundred and eighty-nine, be received in discharge of such impost, unless the bond for the same shall become due after that date.

Certain warrants to foreign creditors, not receivable in discharge of impost now due or to become due.

SECT. 7. *And be it further enacted*, That the taxes which became due on the first day of November one thousand seven hundred and eighty-nine, and all branches of revenue arising between that day and the first day of November one thousand seven hundred and ninety, except the tax of six shillings per hogshead on tobacco, shall be appropriated as follows, that is to say, the taxes arising on law process, recording of wills and deeds, the tax on the seal of the Commonwealth and from the register's office, which shall be specie only, shall be appropriated to the payment of the salaries and allowances to the judges of the superior courts; and if the same shall prove insufficient, the treasurer shall make good the deficiency out of some other funds.

Appropriation of taxes which became due 1st November 1789, and arising between that day and 1st November 1790.

SECT. 8. The money arising under the act intituled "An act imposing new taxes," shall be appropriated to the payment of the wages and salaries of the members and officers of the General Assembly, and civil government; all surplusage in the said appropriations, together with all the other branches of revenue, which became due on the first day of November one thousand seven hundred and eighty-nine, or which shall arise between that day and the first of November one thousand seven hundred and ninety, except the tax of six shillings per hogshead on tobacco, shall be charged with the payment of the warrants for interest on military certificates be-

coming due after the thirty-first day of December one thousand seven hundred and eighty-nine; also with the payment of the warrants issued after the aforesaid period for the contingent purposes of government, so as not to exceed the sum of five thousand pounds: also with the payment of the warrants for the interest becoming due after said period on the loan-office debt, and the paper money funded of this state; also with the payment of the warrants, issued after the aforesaid period for expences attending criminal prosecutions, except for guards in the several counties and corporations; to apprehenders of horse-stealers; to persons intitled to compensation for slaves executed; on account of the states shares in the Potowmack and James river companies; for the post at the point of Fork; for the lunatic hospital; for pensions heretofore granted and remaining unpaid; and for the wages and salaries of the members and officers of the General Assembly and civil government.

Warrants receivable in discharge thereof,

SECT. 9. All warrants so chargeable on the last mentioned taxes, together with those of like description, which have been issued for former years, shall be receivable in discharge of any of the said taxes; and the several sheriffs and collectors upon payment thereof into the treasury, shall have credit for the same. *Provided* that nothing herein contained shall be construed to affect the taxes payable by the clerks of courts, which taxes shall be paid in specie only, the tax on their own fees excepted.

those collected by the clerks of courts excepted.

Executive to direct the treasurer to borrow money from other funds in case of a deficiency in those applied to certain purposes.

SECT. 10. *And be it further enacted*, That if the funds by this act assigned, for paying the judges and other officers of civil government, warrants issued for the Point of Fork, the lunatic hospital, and the shares in the Patowmack and James river companies, should not be productive early enough for these purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money as shall be so deficient out of any other funds, and to replace the same as soon as possible.

Sheriffs conducting elections of the electors of the President, to be paid for their services;

SECT. 11. *And be it further enacted*, That the services of the several sheriffs in this Commonwealth in the elections of electors to vote for a president of the United States in January last, for which no allowance hath been made, shall be paid for in the same manner, as was directed in the case of elections of representatives to Congress, and the auditor is hereby directed to issue warrents for the said services accordingly, which warrants

shall be charged upon the taxes which became due prior to the first day of November one thousand seven hundred and eighty-nine, and shall be receivable in discharge of any of the said taxes. In what manner.

Sect. 12. *And be it enacted*, That no warrant which shall become due after the thirty-first day of December one thousand seven hundred and ninety, shall be receivable in discharge of any of the revenue taxes becoming due, previous to the first day of November in the same year. Certain warrants not receivable in discharge of taxes becoming due previous to 1st November 1790.

CHAP. XXXIX.

An act for the relief of creditors against fraudulent devises.

(Passed the 17th of December, 1789.)

Sect. 1. WHEREAS it is not reasonable or just, that by the practice or contrivance of any debtors, their creditors should be defrauded of their just debts; and nevertheless it hath often so happened, that where several persons, having by bonds or other specialties bound themselves and their heirs, have afterwards died, seized in fee-simple of and in messuages, lands, tenements and hereditaments, or having power or authority to dispose of or charge the same by their wills or testaments, have to the defrauding of such their creditors by their last wills or testaments devised the same, or disposed thereof in such manner as such creditors have lost their said debts: Preamble.

For remedying of which, and for the maintenance of just and upright dealing, *Be it enacted by the General Assembly*, that all wills and testaments, limitations, dispositions or appointments, of, or concerning any messuages, lands, tenements, or hereditaments, or of any rent, profit, term or charge out of the same, whereof any person or persons, at the time of his, her or their decease, shall be seized in fee-simple in possession, reversion or remainder, or have power to dispose of the same by his, her, or their last wills or testaments, shall be deemed and taken (only as against such creditor or creditors as aforesaid, his, her and their heirs, successors, executors, ad- Devises of lands, &c. void as to creditors.

ministrators and assigns, and every of them,) to be fraudulent, and clearly, absolutely and utterly void, frustrate and of non effect; any pretence, colour, feigned or presumed consideration, or any other matter or thing to the contrary nonwithstanding.

Who may sue heirs and devisees jointly;

SECT. 2. And for the means that such creditors may be enabled to recover their said debts, *Be it further enacted*, that in the cases before mentioned, every such creditor shall and may have and maintain his, her and their action and actions of debt, upon his, her and their said bonds and specialties, against the heir and heirs at law of such obligor or obligors, and such devisee and devisees, jointly by virtue of this act; and such devisee or devisees shall be liable and chargeable for a false plea by him or them pleaded, in the same manner as any heir should have been for any false plea by him pleaded, or for not confessing the lands or tenements to him descended.

Exception of devises, &c. to pay just debts,

SECT. 3. *Provided always, and be it enacted by the authority aforesaid*, That where there hath been or shall be any limitation or appointment, devise or disposition, of or concerning any messuages, lands, tenements or hereditaments, for the raising or payment of any real and just debt or debts, or any portion or portions, sum or sums of money for any child or children of any person, other than the heir at law, according to, or in pursuance of any marriage contract or agreement in writing bona fide made before such marriage, the same and every of them shall be in full force; and the same messuages, lands, tenements and hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her and their heirs, executors, administrators and assigns, for whom the said limitation, appointment, devise or disposition was made, and by his, her and their trustee or trustees, his, her and their heirs, executors, administrators and assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions shall be raised, paid and satisfied; any thing in this act contained to the contrary notwithstanding.

or portions in pursuance of any marriage contract.

SECT. 4. *And whereas* several persons being heirs at law, to avoid the payment of such just debts, as in regard of the lands, tenements and hereditaments descending to them, they have by law been liable to pay, have sold, aliened, or made over such lands, tenements or

hereditaments, before any process was or could be issued out against them.

In what manner an heir is answerable where he alienes the lands descended.

Be it further enacted, That in all cases where any heir at law shall be liable to pay the debt of his ancestor in regard of any lands, tenements or hereditaments descending to him, and shall sell, alien or make over the same, before any action brought, or process sued out against him, such heir at law shall be answerable for such debt or debts in an action or actions of debt, to the value of the said land so by him sold, aliened or made over; in which cases all creditors shall be preferred, as in actions against executors and administrators, and such execution shall be taken out upon any judgment or judgments so obtained against such heir, to the value of the said land, as if the same were his own proper debt or debts, saving that the lands, tenements and hereditaments bona fide aliened before the action brought, shall not be liable to such execution.

Heir may plead riens per discent.

Sect. 5. *Provided always, and be it further enacted*, That where any action of debt upon any specialty is brought against any heir, he may plead riens per discent at the time of the original writ brought, or the bill filed against him; any thing herein contained to the contrary notwithstanding; and the plaintiff in such action may reply that he had lands, tenements, or hereditaments from his ancestor before the original writ brought, or bill filed; and if upon issue joined thereupon, it be found for the plaintiff, the jury shall enquire of the value of the lands, tenements or hereditaments so descended, and thereupon judgment shall be given, and execution shall be awarded as aforesaid; but if judgment be given against such heir by confession of the action, without confessing the assets descended, or upon demurrer or nihil dicit, it shall be for the debt and damages, without any writ to enquire of the lands, tenements or hereditaments so descended.

Jury to inquire of the value of the lands if found against him; such enquiry unnecessary where there is judgment by confession or nihil dicit.

Devisees liable as heirs, in case of alienation of the land.

Sect. 6. *Provided also, and be it further enacted*, That all and every devisee and devisees made liable by this act, shall be liable and chargeable in the same manner as the heir at law by force of this act notwithstanding the lands, tenements and hereditaments to him or them devised, shall be aliened before the action brought.

CHAP. XL.

An act directing the method of proceeding in impeachments.

(Passed the 11th of December, 1789.)

Process in impeachments;

BE it enacted by the General Assembly, That the process against any person impeached by resolution of the house of delegates, shall be summons, attachment, and distress, bearing teste, the first of them, the day of emanation, and the others the return day of the process preceding, and shall be issued and signed by the clerk of the court from whence such proceess issued: A copy of the articles of impeachment, shall be delivered to the party accused, whensoever he shall require it, and the court shall from time to time make such rules for compelling him to answer and bringing the matter to issue speedily, as to them shall seem reasonable; and every fact so put in issue shall be tried by a jury.

Accused intitled to copy of the articles;

The court authorised to hasten the issue and trial,

facts in issue to be tried by a jury.

CHAP. XLI.

An act concerning invalid Pensioners.

(Passed the 19th of December, 1789.)

Preamble.

WHEREAS it is provided by the act intitled, "An act to amend the act concerning pensioners," that the court of the county wherein the pensioner resides, shall compare the certificate upon which the claim is founded, with the list transmitted from the auditors, and finding it to be right, shall order it to be recorded and direct the sheriff to pay the pension. And whereas by an act of Congress, intitled "An act providing for the payment of the invalid pensioners of the United States," it is enacted that the military pensions which have been granted and paid by the states respectively, in pursuance of the acts of the United States in Congress assembled, to the invalids who were wounded and disabled during the late war, shall be continued and paid by the United States, from

the fourth day of March in the year one thousand seven hundred and eighty-nine, for the space of one year, under such regulations as the president of the United States may direct.

Be it therefore enacted by the General Assembly, That after the passing of this act, the courts of the several counties shall not direct the sheriffs thereof to pay any pension coming within the description of the above recited act of Congress; and to prevent misconstruction, the executive shall cause to be forwarded to the said courts respectively, a list of such pensions as are provided for by Congress in manner aforesaid, together with the regulations made by the president of the United States in the premises. County courts not to direct the payment of pensions hereafter.

CHAP. XLII.

An act for enforcing the collection and payment of debts due to the Commonwealth, and for other purposes.

(Passed the 19th of December, 1789.)

SECT. 1. WHEREAS much delay is occasioned in the collection of taxes and other debts due to the Commonwealth, by neglect in levying and returning executions, *Be it therefore enacted*, That all sheriffs, coroners or other persons authorised to levy executions of any kind on behalf of the Commonwealth, and failing so to do according to law, or withholding any such execution for any longer time than one month after the return day, shall forfeit and pay to the Commonwealth at the rate of fifteen per centum per annum, on the amount of such execution, to be computed from the return-day thereof, until such execution be actually returned. Preamble. Penalty on sheriffs failing to levy executions for the Commonwealth, or to return them;

SECT. 2. And any officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five per centum on the amount of such execution. for making a false return;

SECT. 3. And in case any sheriff, coroner, or other officer, shall levy on behalf of the Commonwealth any execution, and shall return the same as satisfied, paid, or discharged, or in any other words, form or manner for not paying the money levied;

which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return-day of such execution or other process, that then such sheriff or other officer so failing, shall forfeit and pay to the Commonwealth, double the damages and double the interest to which the debtor, against whom the said execution may have issued, was subject, to commence and accrue on the return-day of such execution, and to continue until payment be made into the treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, that the sheriff or other officer failing to pay to the treasurer within one month after the return-day of such execution, shall forfeit and pay at and after the rate of twenty per centum per annum on the amount.

In what cases such executions may be directed to former sheriffs altho' out of office.

SECT. 4. *And whereas*, great inconvenience arises from sheriffs going out of office after the levying of an execution and before the same be fully discharged, *Be it therefore enacted*, That upon all executions of *fieri facias* already issued, or hereafter to be issued, and which have been or shall be levied but not discharged, whereby subsequent process are necessary to be issued, every such subsequent process may at the discretion of the solicitor, be directed to such person, specially by name, as was high sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process, until the debt be fully paid, notwithstanding such person's time as sheriff of the county be expired.

Penalty on deputy sheriffs failing to add the names of their principals in their returns.

SECT. 5. And all and every deputy sheriff levying any execution for or on behalf of the Commonwealth, shall on failing to sign in addition to his own name, the name of the high sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the high sheriff's name, or the amount of such execution be actually paid, and in case of inability in any deputy sheriff to pay such fine, the same may be recovered of the high sheriff, which he may thereafter recover of such deputy by motion in the court of his county, on giving ten days previous notice to the deputy so failing.

Recovery of fines, &c. for neglect of du-

SECT. 6. *And whereas* doubts have arisen in cases of fines and forfeitures incurred by neglect of certain duties, whether a compliance with such neglected duties

after the period particularly assigned for performance doth not bar a recovery of the fines; To remove which doubts, *Be it therefore enacted*, that no compliance with such duties as are by this act prescribed after the respective periods assigned for performance, and notice given of an intended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures. ty not barred by compliance after notice given.

SECT. 7. *And whereas* a practice hath been lately adopted by sundry persons indebted to this Commonwealth of making conveyances of their property, and others have procured executions for private debts to be levied on all their estates, for the purpose of defeating the operation of executions issued on behalf of the public, to the manifest prejudice of the public revenue, To remedy which, *Be it also enacted*, that in all cases of *fieri facias* not levied by reason, that the effects in a public debtor's possession cannot be taken in consequence of any previous bona fide execution, mortgage, deed of trust, or any other conveyance or incumbrance whatsoever, the sheriff holding such execution shall set forth in his return fully and explicitly the nature of the conveyance or incumbrance under which a claim is set up, and in what court the same be recorded, and if by virtue of executions the name of the persons at whose instance such executions issued, the amount of each, and from what court they were issued, in order that the solicitor may institute such proceedings as the attorney general may direct against all persons concerned, in order to have their claims or demands fully ascertained; and all courts wherein such proceedings shall or may be instituted, are hereby authorised to give the preference in hearing all such cases before others of any kind or nature soever, and to quicken the same by such rules as to them shall seem expedient. Duty of the sheriffs levying executions on property incumbered by executions, mortgages, &c. of the attorney general and solicitor relative thereto;

SECT. 8. If any person shall attempt to stop, interrupt or injure the sale of the estate of any public debtor taken by virtue of an execution, by any fraudulent execution, conveyance or incumbrance whatsoever, he shall forfeit to the Commonwealth the sum of one hundred pounds. Penalty on any person preventing the sale of the property of a public debtor;

SECT. 9. *And be it further enacted*, That all fines and forfeitures inflicted by this act shall be recovered by the solicitor on behalf of the Commonwealth, by motion in the general court with costs, on giving ten days previous notice; *Provided always*, that upon a prosecution insti- Fines and forfeitures, how to be recovered;

tuted for any fine or forfeiture inflicted by this act, a jury shall be impannelled to try the facts if it shall be desired by the party prosecuted.

May be remitted by the executive.

SECT. 10. The defendant or parties, against whom judgment may have been obtained for any such fine or forfeiture, may on application to the governor and council, obtain a remittance either wholly or in part, as to the governor with the advice of council may seem reasonable and proper.

Certain oaths required to be taken by public collectors dispensed with;

SECT. 11. *And whereas* considerable arrearages of taxes still remain unpaid under the laws of revenue heretofore passed, and it is found that the collections thereof have been much impeded by the obligation imposed by several of the said laws upon the sheriffs and collectors, to make return on oath of the particular articles by them received in their several collections; *Be it therefore enacted*, that all and every part and parts of any of the laws of revenue heretofore passed, as requires the sheriffs and collectors to make returns upon oath of the particular articles by them received in their collections, so far as the same may respect the collections hereafter to be made, or payments to be made by the executors or administrators of any deceased sheriff or collector, shall be and are hereby repealed; and the several sheriffs and collectors of the said taxes now remaining uncollected, upon paying the same into the treasury in specie or facilities in such proportions as they are declared receivable by law, shall have credit therefor.

The executive authorised to remit the damages on certain balances due from the sheriffs.

SECT. 12. *And be it further enacted*, That the executive shall and are hereby authorised upon application to them made and for good cause shown, to remit all damages accruing, or which may hereafter accrue on the several balances due from the respective sheriffs and collectors of the public taxes in this Commonwealth, prior to the first day of November one thousand seven hundred and eighty-nine, upon the payment thereof into the public treasury, on or before the first day of May next, and the said sheriffs and collectors are hereby authorised to discharge their respective balances in the same manner as they could have paid the same by the laws under which they were collected. *Provided*, that it shall not be lawful for the executive to remit any damages arising on any of the balances aforesaid, which shall not be discharged by the said first day of May next.

CHAP. XLIII.

An act to prevent the burning of land warrants on which grants have issued, and for other purposes.

(Passed the 18th of December, 1789.)

Land warrants, to be preserved and filed in the land office;

Original plats, &c. of surveys, to be preserved, amongst other evidences of the title.

SECT. 1. *BE it enacted by the General Assembly*, That upon the future examination of the land-office, no original warrant shall be burnt or otherwise destroyed, but be regularly filed in the land-office with the title papers.

SECT. 2. *And be it further enacted*, That no original platt and certificate of survey, once received and carried into grant, shall thereafter be delivered out of the land-office, but shall remain amongst the other evidences of the title.

CHAP. XLIV.

An act for appropriating a farther sum of money for building the Capitol.

(Passed the 19th of December, 1789.)

Sum of money appropriated for building the Capitol,

SECT. 1. *BE it enacted by the General Assembly*, That out of the monies to be collected for the taxes which became due on the first of November one thousand seven hundred and eighty-eight, and also from any surplusage that may arise from the duties on tobacco exported, the sum of four thousand pounds shall be appropriated and applied to the purpose of building a pediment roof on the capitol, to be covered with lead; to the paving the portico and general court room, and such other parts of the capitol, as the directors of the public buildings shall deem most necessary to be immediately done.

SECT. 2. The auditor of public accounts shall, upon orders from the executive, issue his warrants to the directors of the public buildings, for the said sum of money, as the same shall become necessary.

If the fund should not be productive in time, to be borrowed from others.

SECT. 3. In case the funds for the payment of the said sum of money should not be sufficiently productive in time, the deficiency shall and may (at the discretion of the executive) be borrowed from other funds.

CHAP. XLV.

An act to amend the act for preventing the farther importation of slaves.

(Passed the 17th of December, 1789.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that many persons who have migrated into this state, and have become citizens of this Commonwealth, have failed to take the oath within the time prescribed by the act, intituled "An act for preventing the farther importation of slaves," and that such failure proceeded from their being strangers to the laws of this state, at the time of such removal, and it is reasonable, that they should be exonerated from the pecuniary penalties, to which they are liable in consequence of such failure: *Be it therefore enacted by the General Assembly*, that all persons who have so removed into this state may take the oath aforesaid, on or before the first day of June, in the year of our Lord one thousand seven hundred and ninety, and the taking thereof shall be as effectual to exonerate them from the pecuniary penalties of the said recited act, as if it had been taken within ten days after the removal of every such person as aforesaid into this state, and that the time in future be extended to sixty days:

When persons heretofore migrating to this commonwealth with slaves, may take the necessary oaths;

Certificate of the taking such oaths to be recorded.

SECT. 2. And for perpetuating the certificates of such oath, *Be it further enacted*, That where any person hath taken or shall hereafter take the oath prescribed by the said recited act, that the certificate thereof may be lodged with the clerk of the court of the county where such person resides, who shall enter the same of record, and if required, grant a copy thereof, which shall be as valid and effectual as the original thereof; any law to the contrary notwithstanding.

Copy thereof as effectual, as the original.

CHAP. XLVI.

An act concerning awards.

(Passed the 17th of December, 1789.)

A submission to arbitration may be made a rule of any court of record;

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for all merchants, and traders, and others desiring to end any controversy, suit or quarrel, for which there is no other remedy but by personal action or suit in equity, by arbitration, to agree, that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any court of record which the parties shall chuse, and to insert such their agreement in their submission or the condition of the bond or promise, whereby they oblige themselves respectively to submit to the award or umpirage of any person or persons; which agreement being so made and inserted in their submission or promise or condition of their respective bonds, shall or may upon producing an affidavit thereof made by the witnesses thereunto, or any one of them in the court, of which the same is agreed to be made a rule, and reading and filing the said affidavit in court, be entered in the proceedings of such court, and a rule shall be made thereupon by the said court, that the parties shall submit to and finally be concluded by the arbitration or umpirage, which shall be made concerning them by the arbitration or umpire pursuant to such submission.

Awards to be entered as the judgment of such court; and execution issued thereon;

For what conduct of the arbitrators or umpire, such award may be set aside,

SECT. 2. And the award made in pursuance of such submission may be entered up as the judgment or decree of the court, and the same execution or process may issue thereupon as on other judgments or decrees, and the court shall not invalidate such award, arbitrament or umpirage unless it be made appear to such court, that such award, arbitrament or umpirage was procured by corruption or other undue means, or that there was evident partiality or misbehaviour in the arbitrators or umpires or any of them. And any award, arbitrament or umpirage procured by corruption or other undue means, or where there shall have been such evident partiality or misbehaviour as aforesaid, shall be deemed and judged void and of none effect, and accordingly set aside by the court in which the submission shall be made, so as complaint of such corruption or undue means or evident partiality or misbehaviour as aforesaid be made before the

When complaint must be made thereof;

end of the second court of quarter sessions in the case of a county court, or at the end of the second term of any other court next after such award, arbitrament or umpirage be made and returned to such court.

Not to affect the power of courts of equity over awards.

SECT. 3. *Provided nevertheless*, That nothing herein contained shall be construed to take away from courts of equity their power over awards, arbitraments or umpirages.

CHAP. XLVII.

An act empowering the Executive to superintend and arrange the offices of Treasurer, Auditor and Solicitor.

(Passed the 17th of December, 1789.)

The duty of the executive, in superintending the treasurer's, auditor's and solicitor's offices, Committee of, to visit and examine them;

SECT. 1. *BE it enacted by the General Assembly*, That it shall be the duty of the executive to superintend the several offices of the treasurer, auditor and solicitor, and to arrange the same from time to time, as to them shall seem necessary: For this purpose a committee consisting of three members of the council, shall visit and examine the said offices once in every three months at least, or oftener, if it shall appear expedient, to the end that proper checks may be provided in the said public offices, or any of them, and they shall report to the governor, to be by him laid before the council, the state of the books and papers to the said offices belonging, and what changes or additions shall in their judgment be proper, for conducting the business.

Their instructions to be pursued.

SECT. 2. All instructions given by the executive in pursuance of the powers hereby vested in them shall be executed, any law to the contrary notwithstanding.

CHAP. XLVIII.

An act to empower county courts in certain cases to qualify collectors of taxes.

(Passed the 18th of December, 1789.)

Preamble,

SECT. 1. WHEREAS by an act passed this present General Assembly, intituled "An act authorising deputy sheriffs in case of the death of their high sheriffs to collect and distrain for arrearages of taxes," the power of collecting the arrears of taxes in any county on the death of the high sheriff, is confined to the deputies of such high sheriff only, and it hath become probable from an event which hath happened since the passing of the said act, that such taxes may remain uncollected unless provision be made for the same, in case of the death of the under sheriffs also, *Be it enacted by the General Assembly*, that it shall be lawful for the county courts within this Commonwealth, to qualify any person or persons for the purpose of completing the collection of taxes in any county where the sheriff and his deputy shall die before such collection be completed, and the person or persons so appointed shall have the same power in all respects for collecting such arrears as the high sheriff would have had But the acting executors or administrators of such high sheriff and deputy sheriff, if any such there be at the time of such appointment, shall be summoned by order of the said court to shew cause, if any they can, against the person whom the said court shall nominate.

County courts to appoint collectors of taxes, in case of the death of the sheriff and his deputies;

Their executors, &c. to be summoned, to shew cause if they can, against the persons nominated;

SECT. 2. The person or persons so appointed shall in all respects be subject to the same penalties for any neglect of duty or failing to account for and pay to the person or persons authorised to receive the money by him or them so collected, and may be proceeded against by such executors or administrators in the same manner as deputy sheriffs are liable to, and may be proceeded against by their principals.

Penalty on such collectors for neglect of duty;

Mode of proceeding against them.

CHAP. XLIX.

An act to amend the act, intituled "An act for surveying the lands given by law to the officers and soldiers on continental and state establishments, and for other purposes."

(Passed the 17th of December, 1789.)

Preamble.

WHEREAS it is represented, that the superintendants appointed by the deputations of officers under the act of Assembly, intituled "An act for surveying the lands given by law to the officers and soldiers on continental and state establishments, and for other purposes," have from their local situations been unable to perform the duties required of them by the said act, by reason whereof sundry locations have been made without the direction of the said superintendants, *Be it therefore enacted by the General Assembly*, that it shall be lawful for the said deputations of officers to appoint so many additional superintendants as they may judge necessary for carrying the said recited act into effect; who, or any three of them, shall have power, and they are hereby authorised to confirm and establish all or any of the locations, which were not made under the direction of the superintendants appointed in virtue of the said recited act, unless they see cause to the contrary: *Provided nevertheless*, that the powers herein contained, shall not be construed to extend to the establishment of locations or surveys which have by mistake or otherwise been made on prior locations.

Additional superintendants to be appointed,
Their power with respect to certain locations.

CHAP. L.

An act for further amending the act establishing a Supreme Court in the Kentuckey district.

(Passed the 19th of December, 1789.)

Preamble.

SECT. 1. WHEREAS by an act of Assembly passed in the year one thousand seven hundred and eighty-eight, intituled "An act for further amending an act intituled

an act for establishing a district court on the western waters," the executive are authorised to appoint a receiver in the district of Kentuckey, with power to collect the taxes from the several clerks within the said district, and with certain other powers in the said act specified; And whereas, it is represented to this Assembly, that to further extend the powers of the said receiver would promote the collection of the taxes within the said district, *Be it therefore enacted*, that the receiver shall be vested with the joint power and authority which the public auditor, and treasurer are now by law possessed of, for settling with the several sheriffs and collectors of the said district, and giving receipts for all public monies for which they are accountable by law, and also with the power of the solicitor to move the supreme court of the said district for judgment and execution against such of them as shall be delinquent, either by failing to give such bond or bonds as the law may require, or to account for the money or otherwise. And the said court shall have the same power to render judgment and to issue executions thereon in all cases, where the receiver is or shall be authorised to move for the said judgment that the general court have heretofore had.

Receiver of the taxes from the clerks in Kentuckey, to settle with the sheriffs in that district, and receive the public taxes.

To move for judgments against them, for failing to account, &c.

Supreme court authorised to give judgment against them on motion.

Sect. 2. To enable the said receiver to settle with the sheriffs and collectors, the commissioners of the tax of the several counties within the said district are hereby directed respectively, each to return annually to the said receiver a general list of the taxable property within his district, in the same manner and under the same penalties as they are now by law directed to make such returns to the solicitor or auditor, to be moved against in case of failure by the receiver in the supreme court for the district, in like manner as the commissioners for the tax in the other part of this Commonwealth may be moved against by the solicitor.

Commissioners to send lists of taxable property to the receiver;

Sect. 3. The receiver shall be allowed for his services under this act, the same compensation as is allowed him for collecting the taxes from the several clerks, which shall be allowed in the certificates or money in proportion as he may receive.

Allowance to him for his services.

Sect. 4. The same proportion of fees which is payable by the clerks of the several county courts, shall be hereafter paid by the clerk of the supreme court of the said district, to be recovered and accounted for in like manner as from the clerks of the several county courts within the said district.

The clerk of the supreme court to pay to the public the same proportion of his fees as other clerks.

Taxes payable by the clerks in Kentuckey, how dischargeable;

SECT. 5. The taxes payable by the clerks of the said district and hereafter to become due, shall be only dischargeable by those articles which are receivable for the like taxes from the clerks of the other part of this Commonwealth.

Taxes upon property, how dischargeable.

SECT. 6. The taxes arising upon property in the said district, shall be discharged by the payment of such articles as are or shall be admissible by the revenue law of this state, and also by the payment of any certificates, which have issued for the expences attending any Indian expeditions since the first day of January one thousand seven hundred and eighty-five.

Certificates paid to the receiver, how to be disposed of;

SECT. 7. *And whereas* there would be a considerable risk unnecessarily incurred by transmitting to the auditors of public accounts, the certificates which have been or may be paid to the said receiver, *Be it further enacted*, that the judges of the supreme court of the said district or any two of them, shall at each session, examine the accounts of the said receiver, and burn the certificates he shall have received, and certify under their hands, a list of the certificates so burned, specifying the sum for which each certificate was given, its date and to whom it was issued, which list so certified shall be admitted by the auditor of public accounts, in settling the accounts of the said receiver in lieu of the certificates themselves.

List of them to be admitted by the auditor when settling with the receiver.

Certain commissioners to settle the accounts between the Commonwealth and Walker Daniel's representatives.

SECT. 8. *And whereas* it has been represented to the General Assembly, that considerable arrears are due to the estate of Walker Daniel, late attorney general fort he district of Kentuckey, for his salary, and that no person is authorised to settle his accounts in behalf of the Commonwealth concerning the same, *Be it enacted*, that the judges of the supreme court of the district, shall appoint commissioners to settle the said accounts, and certify to the receiver the balance due to the estate of the said Walker Daniel, on account of his salary as aforesaid, who is directed to pay the same in like manner as other officers of the said court.

Duty of receiver respecting the salaries of officers of civil government.

SECT. 9. The receiver shall only certify the arrears of salaries due to the officers of civil government within the said district, when he shall be required by such officer so to do; and where any such certificate has been or shall be given, the same may be discharged by the receiver if it shall be presented to him unsatisfied.

SECT. 10. The supreme court for the district of Kentuckey shall henceforth hold annually three sessions only, to commence on the first Monday in March, the first Monday in June, and the first Monday in October in each year, and each term to continue twenty-four juridical days, unless the business depending before them, be sooner determined. Supreme court, sessions of;

SECT. 11. And that the terms for holding the court of quarter sessions in the counties of Fayette, Bourbon, and Madison, which are now held in the month of October, shall in future be held in the month of November. Quarterly courts of certain counties, when to be held.

SECT. 12. And it shall be lawful for the supreme court of the said district, or the court of any county within the same in which any person died, whose will has been or shall be hereafter recorded in the general or any district court in this Commonwealth, or in the court of any county not within the said district, to qualify the executors, or to grant certificates for obtaining letters of administration, upon an attested copy being produced to them of any such will, and a certificate that the same has been duly proven and recorded in any such court. Power of the supreme and county courts in qualifying executors and granting administrations in certain cases.

SECT. 13. *And be it further enacted*, That the treasurer shall immediately transmit an attested copy of the books of the commissioners who were appointed to settle the expence of two expeditions carried on from the Kentuckey district in the year one thousand seven hundred and eighty-six to the receiver for the district of Kentuckey. Treasurer to send copy of the accounts of expences of Indian expeditions, to the receiver.

CHAP. LI.

An act for altering the court days and Quarter Sessions of certain counties.

(Passed the 17th of December, 1789.)

BE it enacted by the General Assembly, That from and after the first day of April next, the court for the county of Norfolk shall be held on the third Monday in every month, instead of the third Thursday. The court for the town of Petersburg shall be held on the first Monday in every month, instead of the first Wednesday. The court for the borough of Norfolk on the fourth Mon- Days of holding courts altered in the county of Norfolk, the town of Petersburg, the borough of Norfolk,

day in every month, instead of the day heretofore appointed by law. The court of the county of Isle of Wight, shall be held on the first Monday in every month, instead of the first Thursday; and that the court for the county of Princess-Anne shall be held on the first Monday in every month, instead of the second Thursday. That a court of quarter sessions for the said borough of Norfolk, and for each of the counties of Norfolk, Princess-Anne, Northampton, Nansemond, Stafford, Spotsylvania, Fairfax and Loudoun, shall be held in the month of June annually, instead of the month of May; any law to the contrary hereof notwithstanding.

the counties of Isle of Wight, and Princess-Anne, Courts of quarter sessions when to be held. for the borough of Norfolk, the counties of Norfolk, Princess-Anne, Northampton, Nansemond, Stafford, Spotsylvania, Fairfax and Loudoun.

CHAP. LII.

An act for annexing half an acre of land to the land already appropriated for erecting Rockett's warehouse.

(Passed the 4th of December, 1789.)

BE it enacted by the General Assembly, That it shall be lawful for the justices of the county court of Henrico, and they are hereby required on or before the first day of March, one thousand seven hundred and ninety, to value half an acre of land, the property of Samuel Couch, adjoining the acre whereon Rockett's warehouse is erected, and to pay or tender to the said Samuel Couch the value thereof, which shall be repaid to the said justices by the public: and from thenceforth the justices of the county for the time being shall be seized in fee of the said land, in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse.

Half an acre of land to be purchased and annexed to Rocket's warehouse;

Value to be paid to the proprietor by Henrico county, and repaid by the public.

CHAP. LIII.

An act to remove the court of the county of Norfolk, without the borough of Norfolk.

(Passed the 19th of November, 1789.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, That it will be greatly for the ease and relief of the inhabitants of the county of Norfolk, to remove the court of the said county without the borough of Norfolk, *Be it therefore enacted*, that from and after the first day of December next, courts for the said county of Norfolk shall not be holden within the limits of the borough of Norfolk; and that the justices of the said county shall meet at the house of Mrs. Shafer's at Powder point, in the parish of St. Brides, on the first court day, after the time aforesaid, and then and there fix upon such place for holding courts in the said county without the borough of Norfolk, as they may judge most proper and convenient, and thenceforth proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think fit. *Provided always*, that the appointment of a place for holding courts and erecting the necessary public buildings thereon, shall not be made unless a majority of the justices of the said county be present: where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day, when a majority shall be present.

Court of Norfolk county no longer to be held in the borough of Norfolk;

Justices to fix on a place for holding the same,

When a majority is present.

SECT. 2. The said court shall at their first session to be held at the house of Mrs. Shafer's, appoint commissioners, who, or a majority of them, after being sworn, faithfully and impartially to perform the duties required of them by this act, shall proceed to sell the lot of ground within the borough of Norfolk, on which the court-house is now erected, on such terms as the court of the said county shall direct and prescribe, and convey the same to the purchaser or purchasers in fee. That the commissioners shall apportion the money arising from the sales of the said lot, between the inhabitants of the county and those of the borough, according to the number of

The present court-house to be sold;

Purchase money, how to be applied.

tithables they respectively had at the time of levying the expence of building the said court-house, and pay the proportion due to the said borough, to the chamberlain of the corporation, and that which may be due to the county, the said commissioners shall apply towards defraying the expence of erecting the court-house and other public buildings, as well as for the purchase of a lot of ground for fixing the same thereon, and the surplus, if any, shall be applied under the direction of the said court, to the establishment of free schools.

No tax to be laid by the court of Norfolk county on the inhabitants of the borough; Justices of the county residing in the borough not to vote when the inhabitants of the county are to be taxed.

SECT. 3. *And whereas* it is doubted whether the justices of the said county of Norfolk, can of right assess the tithable persons within the said borough, for removing such doubts in future, *Be it further enacted*, that it shall not be lawful for the court of the said county of Norfolk to impose any tax whatsoever on the inhabitants of the said borough of Norfolk; nor shall any justice of the county, residing within the said borough, vote in any measure tending to assess the inhabitants of the said county without the said borough.

CHAP. LIV.

An act for selling certain lands in the county of Princess-Anne.

(Passed the 12th of November, 1789.)

Poor-house and lands to be sold;

SECT. 1. *BE it enacted by the General Assembly*, That the overseers of the poor in the county of Princess-Anne, or a majority of them shall, and they are hereby empowered to sell, upon such terms as they may think best, the land and houses formerly set apart for the reception and accommodation of the poor in the said county, and convey the same to the purchaser or purchasers in fee.

Purchase money, how to be applied.

SECT. 2. The money arising from the sale of the said land, shall be applied by the overseers of the poor towards lessening the poor-rates of the said county.

CHAP. LV.

An act for opening and extending the Navigation of Pamunkey river.

(Passed the 9th of December, 1789.)

Preamble.

Sect. 1. WHEREAS it is represented to the General Assembly, that the opening, improving and extending the navigation of Pamunkey river to the highest part practicable, will be of public utility, and that many persons are willing to subscribe considerable sums of money for effecting the same, *Be it therefore enacted*, that Anthony New, John Winston, Benjamin Temple, Richard Squire Taylor, John Anderson, William Anderson, Richard Overton, John Minor, Vivion Minor, Samuel Temple, John Chiles, William C. Winston, William Darracott, Thomas Prince and Thomas Tinsley, gentlemen, be and they are hereby constituted trustees for clearing, improving and extending the navigation of the said river from Hanover town as far up the different branches thereof as they may judge it practicable, so as to have a sufficient depth and width of water to navigate boats, batteaus or canoes, capable of carrying four hogsheads of tobacco, and they are authorised to take and receive subscriptions for that purpose.

Trustees appointed for improving the navigation of Pamunkey river,

to receive subscriptions;

Method of recovering them;

Sect. 2. Any person neglecting or refusing to pay the money by him subscribed for the purposes of this act, it shall be lawful for the trustees to recover the same by warrant before a single magistrate, where the subscription doth not exceed twenty-five shillings, and where it exceeds that sum, by motion in the court of the county where the person resides, provided he has ten days previous notice of such motion.

Trustees to view the river,

Sect. 3. The said trustees or a majority of them, shall as soon as may be, proceed to view the said river, and ascertain as nearly as they can, the highest part capable of navigation according to this act, and to contract and agree with any person or persons for clearing and improving the navigation of the said river, in such manner as the said trustees shall judge proper, and to remove all obstructions which in any manner injure the said navigation.

and contract for clearing it;

To appoint a receiver of the subscriptions;

Sect. 4. The said trustees or a majority of them, shall have power to nominate and appoint from time to time,

one or more of their number, to be receiver or receivers of all money subscribed by virtue of this act, who shall give bond with sufficient security in the penalty of one thousand pounds in the court of the county where he or they respectively reside, payable to the said trustees and their successors for the time being, with condition that he or they, his or their heirs, executors or administrators at all times when required, will truly and faithfully account for all sums of money, that shall come to his or their hands for the purposes of this act, and pay the same to such person or persons as the said trustees or a majority of them shall order and direct.

Mode of obtaining land through which any canal is to be cut, &c.

SECT. 5. *And whereas* it may be necessary in some parts of the said river to straighten the same, by cutting away the bank, or by a canal, and also to erect houses on the banks of the said river, for the use of toll-gatherers, *Be it therefore enacted*, that it shall and may be lawful for the said trustees or a majority of them, to agree with the owners of any land through which the said canal is intended to pass, or on which any house shall be thought necessary to be erected, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a feme-covert, under age, non compos, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act, intituled "An act for opening and extending the navigation of Patowmack river," and such valuation shall be paid by the trustees to the owner of the said land, or to his or their legal representatives, and on payment thereof, the said land shall thenceforth be vested in the said trustees and their successors in fee, for the purpose of this act.

further duty of the trustees;

SECT. 6. The said trustees and their successors, or a majority of them, shall have power and authority to agree with any person or persons to cut such canals, and erect any works they may think necessary, for opening, improving and extending the navigation of the said river, and out of the money arising from the subscriptions and tolls hereafter given to pay for the same, and to repair and keep in order the said canals and other works, and to defray all incidental charges, and to appoint such toll-gatherers, managers and servants as they shall judge requisite, and to agree for and settle their respective wages or allowances, and settle and pass their accounts, and to make and establish such rules of proceeding, and to

transact all other business for the purpose of carrying this act into execution.

Tolls for the passage of vessels and transportation of commodities up and down the river;

SECT. 7. *And be it further enacted*, That for and in consideration of the expence the subscribers will be at, not only in cutting canals or other labour, for opening and extending the navigation of the said river, but in maintaining and keeping the same in repair, it shall and may be lawful for the said trustees and their successors at all times hereafter, to demand and receive at such place or places upon the said river, as they may think most convenient, for all commodities transported up and down the same, tolls not exceeding those imposed by the act intituled "An act for opening and extending the navigation of Patowmack river;" and in case any person shall neglect or refuse to pay the tolls at the time of offering to pass the place appointed for the payment thereof, and previous to the vessels passing the same, the collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass without paying the said toll, then the said collector may seize such vessel wherever found, and sell the same at auction, for ready money, which so far as is necessary, shall be applied towards paying the said tolls and all expences of seizure and sale, and the balance, if any, shall be paid to the owner; and the person having the direction of such vessel shall be liable for such toll if the same is not paid by the sale of such vessel.

Vessels may be stopped until they are paid,

Mode of recovering them, when vessels pass without paying them;

Produce of the tolls, &c. the subscribers property therein;

SECT. 8. The profits arising from the said tolls, together with the works erected for opening and improving the navigation of the said river, shall be and the same are hereby vested in the said trustees, and their successors for ever, to and for the use of the subscribers, and their heirs as tenants in common, to be apportioned among them according to the sums by them respectively subscribed and paid, and the same shall be deemed real estate, and be for ever exempted from payment of any tax, or imposition whatsoever.

forever exempt from any tax;

Trustees incorporated,

SECT. 9. The said trustees and their successors shall be, and they are hereby declared to be incorporated by the name and title of the Pamunkey Trustees, and may sue and be sued as such. In case of the death, removal, resignation, or incapacity of any of the said trustees, it shall be lawful for the subscribers or a majority of them, to elect other person or persons in the room of him or them so dying, removing or resigning; of the time and place for making such election, previous notice shall be given by

Vacancies, how supplied.

advertisement at the court-houses of the counties of Hanover, Caroline and King William, on two successive court days by the said trustees. If a majority of the subscribers shall fail to attend on the day appointed for electing a trustee, the vacancy shall be supplied by those who do attend.

Subscribers how they may vote; how transfer their property in the tolls, &c.

SECT. 10. The subscribers may vote either in person or by proxy.

SECT. 11. It shall and may be lawful for every subscriber to transfer his interest in the said canals, works and tolls in the same manner, and under the like conditions and exceptions as are prescribed by the said recited act.

Penalty on those who suffer trees to fall into the river; how to be recovered and applied.

SECT. 12. If any landholder on the said river being resident thereon, if not, the tenant or overseer, shall suffer any tree to be felled from his land, or the land of which he is a tenant, or resides on as an overseer, into the said river, and therein to remain the space of twenty-four hours, at any time after the navigation of the said river hath become practicable, every such landholder, tenant or overseer, shall forfeit and pay the sum of forty shillings, to be recovered with costs by information in any court of record to the use of the person suing for the same.

SECT. 13. So much of all and every act and acts, as comes within the meaning of this act, is hereby repealed.

CHAP. LVI.

An act for dividing the county of Montgomery, and adding part of the county of Botetourt to the county of Montgomery.

(Passed the 1st of December, 1789.)

Montgomery county divided, and Wythe formed. Boundaries.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the first day of May next, all that part of the county of Montgomery, which lies south-west of a line, beginning on the Henry line, at the head of Big Reedy Island, from thence to the waggon ford on Peek creek; thence to the clover bottom on Blue Stone; thence

to the Kanhawa county line, shall form one distinct county, and be called and known by the name of Wythe.

Court days

SECT. 2. A court for the said county of Wythe shall be held by the justices thereof on the fourth Tuesday in every month, after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

SECT. 3. The justices to be named in the commission of the peace for the said county of Wythe, shall meet at the house of James M'Gavock, in the said county, upon the first court day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts, as they shall think proper. *Provided always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed, until some court day when a majority shall be present.

Part of Botetourt added to Montgomery.

SECT. 4. *And be it further enacted*, That all that part of the county of Botetourt which lies south-west of a line to begin on the Franklin line on the Blue Ridge, three miles south from Noffsenger's mill; from thence to Walton's Tavern in Botetourt county; from thence to John Glen's on the Catawba road; from thence to Pott's mill on Sinking creek; and from thence to the Greenbrier line, shall be, and the same is hereby added to the county of Montgomery.

SECT. 5. The justices of the said county of Montgomery shall on the court day in the month of May next, hold their session at the house of James Craig, in the said county of Montgomery, and then and there fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit, and thenceforth proceed to erect the necessary pub-

lic buildings at such place, and until such buildings shall be completed, to appoint any place for holding courts, as they shall think proper. *Provided always*, that the appointment of a place for holding courts, shall not be made, unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day, when a majority shall be present.

Sect. 6. *Provided also, and be it further enacted*, That it shall be lawful for the sheriff of the said county of Botetourt to collect and make distress for any public dues and officers fees remaining unpaid at the time of passing this act by the inhabitants of that part of the said county of Botetourt, which is hereby added to the county of Montgomery, and that it also shall be lawful for the sheriff of the county of Montgomery, to collect and make distress for any public dues and officers fees, which shall remain unpaid by the inhabitants of the said county of Wythe, at the time the said county shall take place, and that the sheriffs of each of the said counties of Botetourt and Montgomery shall be accountable for the same, in like manner as if this act had not been made.

Sect. 7. The governor with the advice of the council, shall appoint a person to be first sheriff of the said county of Wythe, who shall continue in office during the term, and upon the same conditions as are by law appointed for other sheriffs.

Sect. 8. The courts of the said counties of Botetourt and Montgomery shall have jurisdiction of all actions and suits which shall be depending before them at the time the said county of Wythe shall take place, and shall try and determine the same and award execution thereon.

Sect. 9. The county of Wythe shall compose part of the district in which Washington and Russel are formed for holding district courts, and the county of Montgomery shall compose a part of the district of which Greenbrier and Botetourt are formed for holding a district court.

Sect. 10. In all future elections of a senator, the said county of Wythe shall be of the same district as the said county of Montgomery.

CHAP. LVII.

An act for altering the place of holding courts in the county of Fairfax.

(Passed the 4th of December, 1789.)

Preamble.

WHEREAS it is represented, that the present situation of the court-house of the county of Fairfax is inconvenient to the inhabitants thereof, and that a court-house for the said county ought to be fixed at some other place near the centre; *Be it therefore enacted by the General Assembly*, that the justices of the said county of Fairfax, shall on or before the first day of June next, proceed in the usual manner to levy on the tithable persons within their county a sum sufficient to erect the necessary buildings, and to purchase two acres of ground whereon to place them, and that they provide for building a court-house, prison, pillory and stocks on the lands of William Fitzhugh, gentleman, or on the lands of any other person, within one mile of the Cross Roads, at Price's ordinary, and that after such buildings shall be completed, the courts for the said county shall be held at the said place.

Court-house, &c. to be built on the lands of William Fitzhugh, or some other person near the cross roads at Price's ordinary.

When completed courts to be held there.

CHAP. LVIII.

An act for supplying the loss of the entry books and field notes of the surveyor for Henry county.

(Passed the 9th of December, 1789.)

Preamble.

SECT. 1. WHEREAS it is represented that the surveyor of the county of Henry hath lost the book containing the entries or location of lands, and also his field notes for surveys made in the year one thousand seven hundred and eighty-seven, whereby the parties interested are likely to lose their rights to the said lands, for remedy whereof, *Be it enacted by the General Assembly*, that it shall and may be lawful for the governor, with advice of council, to issue one or more commissions as the case may require

Loss of entry book and field notes of Henry surveyor, how to be supplied;

under the seal of the Commonwealth, to nine able and discreet persons directed, giving them or any of them full power and authority to meet at some convenient place or places to be by them appointed, and to adjourn from time to time as they shall think fit, and to summon, hear and examine all witnesses, at the instance of any person touching such entries of lands or field notes, so as aforesaid lost, and to take their depositions in writing, and to return the same with such commission or commissions to the executive, which depositions shall be by them laid before the General Assembly at the next session, after such return made, to the end that they may be enabled to grant such effectual relief to the sufferers by the said loss of the entry book and field notes, as to them shall seem just and reasonable.

Depositions taken by the commissioners to be returned to the General Assembly.

Sect. 2. And the said commissioners shall have power to appoint some person skilled in clerkship, to attend them for keeping a journal of their proceedings and drawing the depositions aforesaid, who shall be paid for his services by the said county of Henry.

Commissioners to appoint a clerk to attend them.

CHAP. LIX.

An act to amend and explain an act for appropriating certain taxes to the opening a waggon road, from the state road, to the mouth of Little Kanhawa, and for other purposes.

(Passed the 12th of December, 1789.)

Preamble,

Sect. 1. WHEREAS doubts have arisen whether the commissioners appointed by the October sessions one thousand seven hundred and eighty-six, and one thousand seven hundred and eighty seven, in the counties of Ohio, Monongalia, Harrison and Randolph, for the purpose of superintending the opening two waggon roads, the one from the state road to the mouth of the Little Kanhawa, and the other from Morgan's Town to the mouth of Fishing creek on the Ohio river, have power to call upon the sheriffs of the said counties for the arrears of taxes now due, or so much thereof as will be sufficient to com-

pleat the said work, for removal of such doubts; *Be it enacted by the General Assembly*, that it shall and may be lawful for the said commissioners to demand and receive from the sheriffs of the said counties, so much of any arrears now due as will compleat the opening of the above roads; *Provided* the sums so demanded shall not exceed the sums allowed by the above recited act.

Certain arrears of taxes appropriated to the compleating the roads to the mouth of the Little Kanhawa and Fishing creek. Not to exceed certain sums.

SECT. 2 *And be it further enacted*, That the commissioners aforesaid shall transmit to the auditor of public accounts a transcript of their books on or before the first day of October next, agreeable to the direction of the above recited act, and that the sheriffs of the said counties respectively shall settle their several accounts, and pay into the treasury of this Commonwealth on or before the said first day of October, all balances of the taxes aforesaid as may remain in their hands; and upon failure thereof, the solicitor is hereby directed to move for judgments against the said sheriffs respectively, first giving them a reasonable notice.

Commissioners to send copies of their accounts to the auditor. Sheriffs to pay the balances in their hands by a certain day.

CHAP. LX.

An act appointing trustees in the room of those appointed in the act, intituled "An act for appointing trustees to regulate the making of slopes for the passage of fish in the mill-dams within the county of Bedford.

(Passed the 10th of December, 1789.)

WHEREAS it hath been represented to the present General Assembly, that the trustees appointed by the act, intituled "An act for appointing trustees to regulate the making of slopes for the passage of fish in the mill-dams within the county of Bedford," are either dead or removed, and it is judged necessary to appoint others; *Be it therefore enacted*, that James Callaway, William Leftwitch, Charles Clay, Charles Gwatkins, Thomas Lumpkins, John Otey, Robert Cowan, John Callaway and James Buford, gentlemen, shall be and they are hereby constituted trustees in the stead and place of those mentioned in the said recited act, and shall do and perform what was required of the former trustees.

Preamble.

Trustees to regulate the making of slopes in mill-dams in Bedford.

CHAP. LXI.

An act for selling certain escheated lands in the county of Norfolk.

(Passed the 4th of December, 1789.)

Preamble,

WHEREAS by a resolution of the General Assembly, the sum of four hundred and eighty-six pounds fifteen shillings and five pence, was directed to be paid to Mary Hurt, out of the proceeds of the sale of the confiscated estate of John Bowness; *And whereas* a tract of land in the county of Norfolk, late the property of the said John Bowness, is now vested in the Commonwealth by escheat; *Be it therefore enacted by the General Assembly*, that the executive shall instruct the escheator for the county of Norfolk, to sell as soon as may be, the aforesaid tract of land, in such manner and upon such terms as to them shall seem expedient, and out of the sales thereof to pay to the said Mary Hurt the said sum of four hundred and eighty-six pounds fifteen shillings and five pence, and any other debts against the said John Bowness, which shall be proved to their satisfaction, and to cause the balance to be paid into the public treasury.

Certain escheated land in Norfolk to be sold,

when, and how,

Purchase money, how to be applied.

CHAP. LXII.

An act for repairing the road over the Blue Ridge, at Swift-run Gap, in the county of Rockingham.

(Passed the 12th of November, 1789.)

Preamble,

SECT. 1. WHEREAS it is represented, that the road over the Blue Ridge at the place called Swift-run, in the county of Rockingham, cannot be kept in repair in the ordinary way prescribed by law: *Be it therefore enacted by the General Assembly*, that it shall be lawful for the court of the said county of Rockingham, and the same is hereby empowered and required annually, for and during the term of four years, to contract and agree with some

In what manner road at Swift-run Gap to be repaired;

person or persons upon the best terms that can be obtained, for repairing and keeping in repair the road over the Blue Ridge, at the pass called Swift-run, as far as Page's ordinary, in the county of Orange.

SECT. 2. The person or persons undertaking the said road, shall enter into bond with sufficient security, payable to the justices of the said court, and their successors, in double the sum the same is undertaken for, with condition for the due and faithful performance of the said agreement.

SECT. 3. The expence of repairing and keeping in repair the said road, shall annually during the term aforesaid, be levied by the court on the tithable persons in the said county, to be collected and accounted for in like manner as prescribed by law, for collecting and accounting for parish and county levies; *Provided always*, that such levy shall not annually exceed the sum of one hundred pounds. The expence thereof, how to be defrayed.

CHAP. LXIII.

An act appointing trustees of the town of Fincastle, in the county of Botetourt.

(Passed the 14th of November, 1789.)

WHEREAS it is represented that the trustees of the town of Fincastle, in the county of Botetourt, are either dead or removed out of the county; *Be it therefore enacted by the General Assembly*, that James Breckenridge, Patrick Lockhart, George Hancock, Henry Bowyer, Robert Harvey, Matthew Harvey and Philip Speckard, gentlemen, shall be and they are hereby constituted trustees of the said town of Fincastle, and vested with the same power and authority, as if they had been particularly nominated and appointed in the act for establishing the said town. Preamble. Certain persons appointed trustees; Their power and duty.

CHAP. LXIV.

An act to authorize the Common Hall of the town of Petersburg, to impose a duty on vessels coming to or using the public wharfs, and for other purposes.

(Passed the 17th of December, 1789.)

SECT. 1. *BE it enacted by the General Assembly*, That as doubts have arisen respecting the right of the Common Hall of the town of Petersburg, to levy a tax of more than one hundred pounds on the people thereof without the consent of the electors, agreeable to an act intituled "An act to amend the act intituled an act for incorporating the town of Petersburg, and for other surposes," therefore to prevent such doubts in future, *Be it enacted*, that the Common Hall shall not lay any greater tax in any one year than the sum of one hundred pounds.

Common-Hall not to raise more than 100*l.* per year,

SECT. 2. *And whereas* it is represented that fire-engines are absolutely necessary for the town, *Be it further enacted*, that the Common Hall of the said town shall have power to raise by a tax the sum of three hundred pounds, for the purpose of repairing and purchasing fire-engines, but not more than one moiety shall be raised in any one year, over and above the one hundred pounds.

Unless for the purchase of fire-engines.

SECT. 3. *And be it further enacted*, That it shall and may be lawful for the Common Hall of the town of Petersburg, to levy and collect a reasonable tax or duty upon all vessels coming to or using the public wharf, already erected between Coffee-House street and the small bridge towards Blandford.

May receive tolls from vessels using the public wharf;

SECT. 4. *And whereas* a considerable sum of money has been advanced by the public for the purpose of erecting a wharf at Rocket's landing, and it is reasonable that vessels using the same should pay a compensation for the use thereof: *Be it therefore enacted*, that the Common Hall of the city of Richmond be, and they are hereby empowered and required to levy a reasonable toll on all vessels using the aforesaid wharf, except such as are specially employed in shipping tobacco, and to allow the harbour master, or such other person as the Common Hall may appoint, such salary as in their opinion

Common-Hall of Richmond to levy tolls from vessels using the public wharf, unless employed in shipping tobacco;

shall be adequate to his trouble for collecting the tolls aforesaid, and the person so appointed, after deducting his salary, shall upon oath account for and pay into the treasury on or before the first day of October in every year, the overplus of the tolls by him collected.

Money arising therefrom, how to be applied.

CHAP. LXV.

An act empowering the trustees of the town of Lexington, in the county of Fayette, to sell a part of the public lot in the said town, for the purpose of erecting thereon a house of worship.

(Passed the 4th of December, 1789.)

Preamble.

SECT. 1. WHEREAS by the act for establishing the town of Lexington in the county of Fayette, a lot of land within the said town was reserved for public use, and it has been represented by the inhabitants of the said county, that the dimensions of the said lot exceed what is necessary for the purposes intended by the said act: *Be it therefore enacted by the General Assembly*, that the said lot shall be divided by a line beginning on the Main street, six poles from the west corner, and thence across the said lot a north-east course: and that the part thereof lying north-west of the said line, shall be set apart for the particular purpose of erecting thereon a house of divine worship; and the trustees of the said town are hereby authorised and empowered to sell the same to the highest bidder at public vendue, for the purpose aforesaid, giving previous notice in the Kentuckey Gazette, of the time and place of such sale; and whatever denomination of Christians shall become the legal purchasers thereof, the said trustees are hereby also directed to make or cause to be made a deed or deeds, so as to convey the title thereof to the said purchasers and their successors for ever.

Public lot in Lexington to be divided;

Part thereof to be set apart for erecting a house of worship;

And to be sold to any denomination of Christians;

SECT. 2. *And be it further enacted*, That the money arising from the sale thereof, be applied towards the building a market-house in the said town.

Purchase money how to be applied.

CHAP. LXVI.

An act granting further time to the possessors of lots in the towns of Clarksburg, Morgan's Town, Harrodsburg and Louisville, for building thereon.

(Passed the 4th of December, 1789.)

Preamble.

WHEREAS it is represented that the hostilities of the Indian tribes and other causes, have prevented, or will prevent many of the possessors of lots in the town of Clarksburg, in the county of Harrison; of Morgan's Town, in the county of Monongalia; of Harrodsburg, in the county of Mercer; and of Louisville, in the county of Jefferson, from building thereon, in pursuance of the acts by which the said towns were established; *Be it enacted by the General Assembly*, that every possessor of a lot in any of the said towns, shall be allowed the farther space of three years, after the day limited by law shall expire for building thereon, conformably to the acts for establishing the said towns respectively.

Further time allowed the possessors of lots to improve them.

CHAP. LXVII.

An act to empower the Mayor and Commonalty of the town of Fredericksburg, to lease parts of certain lots therein.

(Passed the 4th of December, 1789.)

Corporation authorised to lease parts of certain lots.

BE it enacted by the General Assembly, That it shall be lawful for the mayor and commonalty of the town of Fredericksburg, and they are hereby empowered to lease for three lives or twenty-one years, or any lesser estate therein, such unimproved parts of the Market-house lots as to them shall seem most proper, and apply the rents arising therefrom for the benefit of the corporation.

Rents, how to be applied.

CHAP. LXVIII.

An act to authorise the trustees of Randolph Academy, to raise a sum of money by Lottery.

(Passed the 12th of November, 1789.)

Trustees to raise a sum of money by lottery; How to be applied.

BE it enacted by the General Assembly, That it shall be lawful for the trustees of Randolph Academy, and they are hereby empowered to raise, by way of lottery, a sum of money, not exceeding one thousand pounds, to be by them applied to the use of the said Academy.

CHAP. LXIX.

An act to establish a town in each of the counties of Madison, Albemarle and Bourbon.

(Passed the 9th of December, 1789.)

Towns of Milford, in Madison county; Milton, in Albemarle; and Hopewell, in Bourbon, established.

SECT. 1. *BE it enacted by the General Assembly*, That fifty acres of land adjoining the courthouse in the county of Madison, the property of Samuel Estill, and the representatives of John Estill, deceased, shall be, and they are hereby vested in Green Clay, John Miller, William Irvine, Archibald Woods, James Barnett, George Adams, Michael M'Neeley, James French and Robert Rhodes, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each with convenient streets, and established a town by the name of Milford.

SECT. 2. And that one hundred acres of land, the property of Bennett Henderson, lying on Rivanna river, at the place called the Shallows, in the county of Albemarle, shall be and they are hereby vested in Wilson Cary Nicholas, Francis Walker, Edward Carter, Charles Lilburn Lewis, William Clark, Howel Lewis and Edward Moore, gentlemen, trustees, to be by them, or a majority of them laid off into lots of half an acre each with convenient streets, and established a town by the name of Milton.

Sect. 3. So soon as the said lands shall respectively be laid off into lots, the trustees of each or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of the sale of the lots in the town of Milford, shall be previously advertised two months in the Kentuckey Gazette, the sale of the lots in the said town of Milton shall be previously advertised two months in the Virginia Gazette; the purchasers to hold the said lots respectively subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and to convey the said lots to the purchasers thereof in fee subject to the condition aforesaid.

Sect. 4. The trustees of the said town of Milford shall pay the money arising from the sale of the said lots to the said Samuel Estill, or his legal representatives, and the representatives of the said John Estill deceased, in such proportions as he or they shall respectively be entitled to receive the same; and the trustees of the said town of Milton shall pay the money arising from the sale of the said lots to the said Bennett Henderson or his legal representatives.

Sect. 5. *And be it further enacted*, that two hundred and fifty acres of land at the court-house of the county of Bourbon, as the same are laid off into lots and streets by Lawrence Sprotsman, the proprietor thereof, shall be established a town by the name of Hopewell, and that Notley Conn, Charles Smith, jun. John Edwards, James Garrard, Edward Waller, Thomas West, James Lanier, James Little and James Duncan, gentlemen, are hereby constituted trustees thereof.

Sect. 6. The trustees of the said towns respectively or a majority of them, are authorised to make such rules and orders for the regular building of houses thereon as to them shall appear proper.

Sect. 7. So soon as the purchasers of lots in the said towns shall have built thereon a house, sixteen feet square at the least, with a brick or stone chimney, such purchasers shall then be entitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Sect. 8. If the purchaser of any lot in the said

towns of Milford or Milton, shall fail to build thereon within the time herein before limited for that purpose, the trustees of the said town where such failure shall happen, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. LXX.

An act for repairing the streets and aquæducts in the town of Staunton, and for preventing swine running at large therein.

(Passed the 14th of November, 1789.)

The trustees to levy a sum of money annually on the male tithables of the town;

SECT. 1. *BE it enacted by the General Assembly*, That the trustees of the town of Staunton, in the county of Augusta, or a majority of them being assembled, shall and they are hereby empowered, to levy and assess on the male tithables of the said town annually, a sum not exceeding two shillings for each tithable person, and to appoint a collector of the said tax.

How to be collected;

SECT. 2. If any person on whom such tax shall be assessed, shall neglect or refuse to pay the same at the time appointed for the payment thereof, it shall be lawful for the collector to levy the same by distress and sale of the delinquent's goods, in like manner as is directed and prescribed for the non payment of county levies.

The collector to give bond and security for duly collecting and accounting for the money;

SECT. 3. The collector of the said tax before he undertakes the same, shall give bond with sufficient security in a reasonable penalty, payable to the said trustees for the due collection and payment thereof; and in case of failure, shall be liable in the same manner, under the like penalty, and same mode of recovery, as the collectors of the county levies are by law made liable.

To what purposes it is to be applied;

SECT. 4. The trustees of the said town or a majority of them, shall annually apply the money arising from the said tax towards repairing the streets and aquæducts in the said town; and if they shall neglect or refuse to apply the said taxes when collected, to the purposes aforesaid, he or they so offending, shall forfeit and pay the sum of fifty pounds to the informer, to be recovered with costs upon motion, in any court of record; *Provided* the

Penalty on the trustees for failing so to apply it.

party shall have ten days previous notice of such motion.

Persons subject to the tax may discharge it by personal labour;

SECT. 5. *Provided always*, That it shall be lawful for any person subject to the payment of the said tax, to discharge the same by personal labour, at the usual rates per day, on the streets of aquæducts in the said town.

Swine belonging to the inhabitants not to run at large.

SECT. 6. *And be it further enacted*, That if any swine belonging to an inhabitant of the said town, shall be found running at large within the limits thereof, it shall be lawful for any person to kill and destroy such swine running at large; *Provided always*, that the person killing such swine, shall not convert the same to his or her own use, but leave the same where it shall be so killed, and give immediate notice thereof to the owner, if known, and if not, then to the next justice of the peace, who may order the same to the use of any poor person; *Provided also*, that nothing herein contained, shall be deemed or taken to hinder any person from driving swine to or through the said town or limits thereof, in order to sell the same, or in their removal from one plantation to another.

CHAP. LXXI.

An act for appointing trustees to the town of Romney, in the county of Hampshire, and for adding trustees to the town of Louisville, in the county of Jefferson.

(Passed the 4th of December, 1789.)

Certain persons appointed trustees of Romney;

SECT. 1. *BE it enacted by the General Assembly*, That Isaac Parsons, Isaac Miller, Andrew Wodrow, Stephen Colvin, Jonathan Pursell, Nicholas Casey, William M'Guire, Perez Drew and James Murphy, gentlemen, shall be and they are hereby constituted and appointed trustees of the town of Romney, in the county of Hampshire; and that they or any five of them shall have the power and authority to settle all disputes relative to the lots in the said town, and also to open and clear the streets and lanes in the said town, agreeable to the original plan and survey thereof.

Their power;

SECT. 2. *And be it further enacted*, That Buckner Thruston, James Wilkinson, Michael Lacassagne, Alexander Scott Bullitt, Benjamin Sebastian, John Felty, Jacob Reager, James Patton, Samuel Kirby, Benjamin Erickson and Benjamin Johnson, gentlemen, shall be and they are hereby constituted and appointed trustees of the town of Louisville, in the county of Jefferson, in addition to those heretofore appointed; and it shall be lawful for any seven of the trustees of the said town of Louisville, to proceed in the execution of the act for establishing the said town, any law to the contrary thereof notwithstanding. Certain persons added to the trustees of of Louisville; Their powers.

CHAP. LXXII.

An act to amend an act, intituled "An act incorporating the trustees of the Winchester Academy," and to vest certain emoluments in the said academy.

(Passed the 9th of December, 1789.)

SECT. 1. WHEREAS it is represented to this present general assembly, that the mode directed by law for appointing trustees of the Winchester academy, is found from experience highly inconvenient; *Be it therefore enacted by the General Assembly*, that the trustees to be appointed pursuant to the act intitled "An act for incorporating the trustees of the Winchester academy," on the first Monday in February next, shall be and remain trustees of the said academy until they shall be removed by death, resignation, inability or refusal to act; and that upon the death, resignation, inability or refusal to act of any one or more of the said trustees or their successors, those remaining, or a majority of them, shall at their next meeting proceed by ballot to supply such vacancy. Preamble; Trustees to continue in office, until removed by death, resignation, &c. Vacancies, how to be supplied.

SECT. 2. And for the better support of the said academy, *Be it further enacted*, that whatsoever right hath heretofore vested in this Commonwealth by way of escheat or forfeiture in a certain lot or half acre of ground in the town of Winchester, of which a certain Adolph Strole died seized; one certain tract or parcel of land Certain escheated lands granted to them,

situate, lying and being in the county of Frederick, containing two hundred acres, of which a certain James Hamilton died seized; one other tract or parcel of land situate in the said county of Frederick, containing five hundred and twenty acres, late the property of a certain Thomas Spear, together with all and singular the appurtenances to the said lot of ground, and the said two several tracts of land belonging, shall be and the same is hereby vested in the trustees of the said academy and their successors, to be by them disposed of in such manner as they may judge most conducive to the interest of the same, and the purposes of its institution.

to be disposed of for the benefit of the academy.

Trustees may institute any legal process or suit for the said lands;

SECT. 3. And it shall and may be lawful for the said trustees and their successors, by the stile and title of the Trustees of the Winchester Academy, to institute or commence any legal process or suit, and to prosecute the same to final judgment and execution, or to sue and implead, or be sued and impleaded, touching and concerning the said lot and tracts of land, in the same manner as the Commonwealth might sue and implead, or be sued and impleaded in case this act had never been passed.

Reservation of the rights of all claimants, other than the Commonwealth.

SECT. 4. Saving to every person and persons, bodies politic and corporate, other than the Commonwealth, any rights legal or equitable which they may have in or to the said lot of ground, or either of the said tracts of land, in the same manner as if such escheat and forfeiture had not taken place.

CHAP. LXXIII.

An act for incorporating an Academy in the county of Fauquier, and raising a sum of money by Lottery for the use thereof.

(Passed the 9th of December, 1789.)

Trustees incorporated,

SECT. 1. FOR incorporating the academy at the court-house in the county of Fauquier, *Be it enacted by the General Assembly*, that William Edmonds, Robert Randolph, Martin Pickett, Francis Whiting, Edward Digges, Thomas Digges, Gustavus Brown Horner, William Pickett, John Blackwell, jun. Elias Edmonds

and William Stewart, gentlemen, and those hereafter to be elected, and their successors for ever, are hereby made and constituted a body corporate and politic, by the name of the Trustees of Warren Academy; they shall have power and capacity to purchase, receive and possess lands and tenements, goods and chattels, either in fee or any lesser estate therein, and the same to grant, let, sell, or assign; and to plead, and be impleaded, prosecute and defend all causes in law or equity: they shall choose a president and secretary out of their own body; and in case of vacancy by death or otherwise of any one or more of the said trustees, the same shall be supplied by a majority of the remaining trustees.

Vacancies, how supplied;

Sect. 2. The said trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances as they shall think best for the good government of the said academy, and to perform and do any act respecting the property vested therein; provided such bye-laws and ordinances shall not be inconsistent with the laws and constitution of this Commonwealth.

Empowered to make bye-laws and to dispose of the property of the academy;

Sect. 3. *And be it further enacted*, That the lands conveyed to the former trustees of the said academy, by Richard Henry Lee, esquire, shall be vested in the trustees aforesaid, as effectually as if such conveyance had been made and executed to them after the passing of this act.

Certain lands granted to former trustees, vested in the present.

Sect. 4. It shall be lawful for the said trustees to raise by way of lottery, a sum of money not exceeding five hundred pounds, to be by them applied to and for the use of the said academy.

May raise money by a lottery; How to be applied.

CHAP. LXXIV.

An act to authorise the trustees of Fredericksburg Academy, to raise a sum of money by Lottery.

(Passed the 9th of December, 1789.)

***BE** it enacted by the General Assembly*, That it shall be lawful for the trustees of the Fredericksburg academy, to raise by way of lottery, and in one or more lotteries, a sum of money not exceeding four thousand pounds,

Trustees to raise a sum of money by lottery;

How to be applied.

to be by the said trustees applied towards defraying the expence of erecting a building on the academy lands for the purpose of accommodating the professors and students.

CHAP. LXXV.

An act to authorise the raising of a sum of money by lottery, for the use of the town of Alexandria.

(Passed the 9th of December, 1789.)

Trustees appointed to raise a sum of money by lottery;

BE it enacted by the General Assembly, That it shall be lawful for Charles Simms, Charles Lee, Richard Conway, William Hunter, jun. George Gilpin, Philip Marsteller, William Herbert, Robert T. Hooe, Jesse Taylor, William Brown, Thomas Porter, John Fitzgerald, Josiah Watson, Ludwell Lee, Bushrod Washington, William Hunter, sen. and John Dundas, gentlemen, or any nine of them, who are hereby constituted trustees for that purpose, to raise by lottery, a sum of money not exceeding fifteen hundred pounds, and to apply the same towards defraying the expence of paving some of the most frequented streets in the town of Alexandria.

How to be applied.

CHAP. LXXVI.

An act for vesting in trustees the interest which the Commonwealth now hath, or hereafter may have in certain lands, whereof John Milstead died, seized.

(Passed the 12th of December, 1789.)

Preamble,

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that John Milstead departed this life in the year one thousand seven hundred and eighty-seven, intestate and without heirs, leaving a personal estate not sufficient for the payment of his debts, and possessed of two small tracts of land lying in the

county of Greenbrier, which have become escheatable to the Commonwealth, and it is more agreeable to the principles of justice, that the said lands should be applied to the discharge of the debts of the said John Milstead, than that the public should be benefited thereby; *Be it therefore enacted by the General Assembly*, that all the right and interest which the Commonwealth now hath to the said tracts of land, or which may hereafter be established therein by an office to be found, shall be and the same is hereby vested in Hugh Caperton, James Henderson, James Alexander, John Gray, William Maddy and William Thomson, gentlemen trustees, or the survivor or survivors of them:

Interest of the commonwealth in certain escheatable lands vested in trustees;

SECT. 2. When the right of the Commonwealth to the said lands shall be fully established, agreeably to the directions of the act intitled "An act concerning escheators," the said trustees, or the survivor or survivors of them, shall when required by John Hutcheson, and Mathias Kesinger, administrators of the said John Milstead, deceased, sell the said tracts of land for the best price that can be gotten.

To be sold, when and how;

SECT. 3. The purchase money for the said lands shall be paid to the said John Hutcheson and Mathias Kesinger, administrators of the goods and chattels of the said John Milstead deceased, to be applied by them in a due course of administration to the discharge of the debts of the said decedent: and in case there should be any surplus after paying such debts, the same shall by the said administrators be paid into the public treasury.

Purchase money, to whom to be paid, and how to be applied;

SECT. 4 Saving however to all persons and bodies politic and corporate, other than those claiming under the Commonwealth, all legal or equitable rights, which they might have asserted to the said lands or any part thereof.

Rights of all other claimants saved.

CHAP. LXXVII.

An act for vesting the real estate of Robert Read deceased, in Margaret Read and her heirs.

(Passed the 14th of December, 1789.)

SECT. 1. WHEREAS Robert Read late of the county of Augusta died intestate and without issue, leaving

Preamble.

Margaret Read his widow and relict; And whereas, it has been represented, that the heir at law of the said Robert Read is an alien, whereby the real estate whereof he died seized, is escheatable to the Commonwealth; and the said Margaret Read having petitioned this Assembly, that the same may be vested in her: *Be it therefore enacted by the General Assembly*, that all the right, title, interest, claim and demand which now exists in the Commonwealth, or upon any office hereafter to be found, shall be established therein, shall pass, descend and be vested in the said Margaret Read and her heirs in fee simple.

Interest of the Commonwealth in the estate of Robert Read, vested in his widow:

Rights of all claimants, others than the Commonwealth saved.

SECT. 2. Saving nevertheless, the rights legal and equitable of all and every person and persons, bodies politic, or corporate, except of the Commonwealth and those claiming under it, in and to the said real estate, and every part thereof.

CHAP. LXXVIII.

An act releasing the escheat accruing on the death of James Edzar the younger.

(Passed the 10th of December, 1789.)

Preamble.

SECT. 1. WHEREAS James Edzar the younger deceased was in his life time seized in fee simple of two tracts of land lying in the counties of Stafford and Orange, which descended to him as heir at law of his father James Edzar the elder, who died intestate; And it is represented to this present General Assembly, that the said James Edzar the younger also departed this life intestate and without leaving any person capable by law of inheriting the said lands, and that William Edzar would, but for the impediment of half blood have been the heir of the said James Edzar the younger: *Be it enacted by the General Assembly*, that all the right, title, interest, claim and demand, which now exists in the Commonwealth, or upon any office hereafter to be found, shall be established therein, shall pass, descend, and be vested in the said William Edzar, and his heirs in fee simple.

Interest of the Commonwealth in certain escheatable lands, vested in William Edzar.

SECT. 2. Saving however to the widow of the said James Edzar the elder, her dower in the said lands, and to all other persons, and bodies politic, and corporate, other than those claiming under the Commonwealth, all legal or equitable rights which they might have asserted to the said lands, if no defect of heritable blood had taken place. Rights of all other claimants saved.

CHAP. LXXIX.

An act concerning the marriage of Anne Dantignac.

(Passed the 19th of December, 1789.)

SECT. 1. WHEREAS a marriage was solemnized in the month of September, in the year of our Lord one thousand seven hundred and eighty, between John Dantignac then of Colchester, in the county of Fairfax, and Anne Peachy of the county of Prince William; And whereas it has been represented to this Assembly, that soon after the marriage took effect, he began, and so long as they lived together continued to treat his wife in a cruel and inhuman manner; That in the month of July in the year one thousand seven hundred and eighty-three, he departed from this state with a declared resolution never to return to it, or to see his wife again, whereby he has abandoned her to the world, and as far as he might has relinquished the character and duties of a husband; That he has not since discovered any disposition to resume his former connexion with the said Anne, but has lived with another woman in adultery; *Be it therefore enacted*, that it shall and may be lawful for the said Anne to sue out of the office of the general court a writ against the said John Dantignac, which writ shall be framed by the clerk, shall express the nature of the case, and shall be published for eight weeks successively in some one of the public papers, whereupon the plaintiff may file her declaration in the said cause, and the defendant may appear and plead to issue in which case, or if he does not appear within two months after such publication, it shall be set for trial by the clerk on some day in the succeeding court, but may for good Preamble. Writ to be sued out of the General Court by Anne Dantignac against her husband; Proceedings thereupon;

cause shewn to the court be continued until the succeeding term.

SECT. 2. Commissions to take depositions and subpænas to summon witnesses shall issue as in other cases.

SECT. 3. Notice of taking depositions published in some one of the public papers shall be sufficient.

Truth of the plaintiff's allegations, how to be tried;

SECT. 4. A jury shall be summoned, who shall be sworn well and truly to enquire into the allegations contained in the declaration or to try the issue joined as the case may be, and shall find a verdict according to the usual mode: and if the jury in case of issue joined, shall find for the plaintiff, or in case of enquiry into the truth of the allegations contained in the declaration, shall find in substance that the defendant hath abused and deserted the plaintiff, and that he hath lived in adultery with another woman, the said verdict shall be recorded, and thereupon the marriage between the said John and Anne shall be totally dissolved; the power of the said John over the person and property of the said Anne shall intirely cease: and the said Anne is hereby declared to be from and after recording the said verdict to every intent and purpose a *feme sole*.

Verdict of the jury to be recorded;

Effects thereof, if in favour of the plaintiff.

CHAP. LXXX.

An act for paying a sum of money to John Cox.

(Passed the 18th of December, 1789.)

Preamble,

SECT. 1. WHEREAS it is represented that the escheator of Dinwiddie county some time in the year one thousand seven hundred and seventy-nine, sold a lot of land lying in the town of Petersburg, as the property of Joseph Elam a British subject, and that Peter Randolph esquire became the purchaser thereof, who afterwards sold the same to a certain John Cox for a valuable consideration; And whereas it is also represented that since the said sale, an ejectment has been brought by Erasmus Gill and Sarah his wife for the said lot of land, who have obtained a judgment for the same and have been put in possession thereof; and it is reasonable that

compensation should be made to the said John Cox by the public for the said lot of land; *Be it therefore enacted by the General Assembly*, that the auditor of public accounts shall be and he is hereby authorised, to issue a warrant to the said John Cox for one hundred and seventy-eight pounds eleven shillings and five pence, being the value of the purchase money which was paid into the public treasury for the sale of the said lot of land, and that an interest of six per centum per annum, shall be allowed thereon to be computed from the fifteenth day of August one thousand seven hundred and eighty till payment.

Sum of money to be paid to John Cox, with interest;

SECT. 2. *Provided*, That the said John Cox shall give bond with security and in a penalty to be approved by the executive for restoring the money so to be paid to him as aforesaid, in case the Commonwealth shall hereafter establish a right to demand the same upon a reversal of the said judgment in law or equity.

To be refunded, if a judgment obtained against him be reversed.

CHAP. LXXXI.

An act to enable David Stuart to re-convey a tract of land purchased by John Parke Custis, of Robert Alexander.

(Passed the 17th of November, 1789.)

WHEREAS it is represented to the present General Assembly, that John Parke Custis departed this life in the year one thousand seven hundred and eighty-one, leaving Eleanor Custis his widow with four small children, and that the said Eleanor hath since intermarried with a certain David Stuart; And whereas it is also represented, that previous to the death of the said John Parke Custis, he purchased of a certain Robert Alexander, a tract of land lying in the county of Fairfax, for which he was to pay a considerable sum of money, but since the death of the said John Parke Custis, a dispute hath arisen respecting the said contract, and the said Alexander hath agreed to take back the said land upon being paid a reasonable compensation for the use thereof, which will be greatly to the interest of the children of the said John Parke Custis; but as the heir at

Preamble.

law is an infant of tender years, no contract can be made to bind him, without the interposition of this Assembly, to whom application hath been made for that purpose: *Be it therefore enacted by the General Assembly*, that any agreement or contract which the said David Stuart, by and with the consent of George Washington, esquire, to be expressed under the hand and seal of the said George Washington, esquire, shall make or enter into, respecting the surrendering the said lands to the said Robert Alexander, shall be deemed and taken to be valid and effectual to all intents and purposes.

How, and by whom, a tract of land, purchased by John Parke Custis to be reconveyed to Robert Alexander.

CHAP. LXXXII.

An act vesting the estate of Samuel Abbott, deceased, in trustees, to be sold for the benefit of his children.

(Passed the 11th of December, 1789.)

Preamble,

SECT. 1. WHEREAS it is represented that Samuel Abbott, a native of Ireland, some years past migrated to this country and became seized and possessed of several valuable lots and houses in the town of Fredericksburg, and hath lately departed this life, leaving two children in Ireland, who are by law incapable of inheriting the said estate, and it is not reasonable that the Commonwealth should derive benefit from a principle of escheat in this particular case: And whereas application hath been made to this Assembly to vest the said estate in trustees to be sold for the use and benefit of the children of the said Samuel Abbott: *Be it therefore enacted by the General Assembly*, that all the right, title, claim, interest and demand which now exists in the Commonwealth, or upon any office hereafter to be found, shall be established therein to the said estate of the said Samuel Abbott, shall be vested in Charles Mortimer, George French, William Harvey, Benjamin Day and Stephen Lacoste, gentlemen trustees, to be by them, or any three of them, sold for the best price that can be had, giving three months notice of the time and place of sale in the Virginia Gazette.

Interest of the Commonwealth in the estate of Samuel Abbott vested in trustees,

to be sold, when and how

SECT. 2. The said trustees shall convey the same to the purchaser or purchasers in fee, and apply the money arising from the sale thereof, in the first place to the payment of the just debts of the said Samuel Abbott, and apportion the residue equally between his children or their legal representatives. Purchase money, how to be applied.

CHAP. LXXXIII.

An act concerning the escheated property of James Coupland, deceased.

(Passed the 12th of November, 1789.)

WHEREAS it hath been represented to the present General Assembly, that James Coupland, late of the county of Chesterfield, some time in the year one thousand seven hundred and seventy-two, died intestate, seized of a house and lot in the town of Broadway and some personal estate, leaving his heir at law, a British subject, which real estate escheated to the Commonwealth, and was sold for the sum of twelve hundred pounds in military certificates: And whereas it hath been also represented that David Coupland is the nephew and nearest relation of the said decedent in this country, and that the said David was educated and patronized by the said decedent, who discovered for him the greatest affection, and frequently declared that he had the affection of a father for him, that he had adopted him as his heir, and would leave him his estate, and also that administration on the said decedent's estate was granted to the said David, who from some unforeseen events, hath made himself liable for debts of his intestate, to an amount far exceeding the assets, which have come to his hands to be administered, and it is reasonable that retribution should be made to the said David Coupland: *Be it therefore enacted by the General Assembly*, that the executive shall be, and they are hereby authorized and empowered to cause to be issued unto the said David Coupland, a warrant on the aggregate fund for the sum of three hundred and thirty pounds, being the value of the military certificates, for which the real estate of the said James Coup- Preamble. A sum of money to be paid to David Coupland, out of what fund,

How to be applied by him.

land, deceased, was sold, and which escheated to this Commonwealth; to be by him applied in the first instance towards the discharge of the debts of his said intestate, and should any surplus remain in his hands thereafter, that it shall be lawful for the said David Coupland to hold and enjoy the same to and for his own proper use and benefit for ever.

CHAP. LXXXIV.

An act for the purchase and manumitting negro Cæsar.

(Passed the 14th of November, 1789.)

Preamble,

WHEREAS it is represented to this Assembly, that Mary Tarrant of the county of Elizabeth City, hath her life in a negro named Cæsar, who entered very early into the service of his country, and continued to pilot the armed vessels of this state during the late war; in consideration of which meritorious services it is judged expedient to purchase the freedom of the said Cæsar; *Be it therefore enacted by the General Assembly*, that the executive shall appoint a proper person to contract with the said Mary Tarrant for the purchase of the said Cæsar, and if they should agree, the person so appointed by the executive shall deliver to the said Mary Tarrant a certificate expressing such purchase and the sum, and upon producing such certificate to the auditor of accounts, he shall issue a warrant for the same to the treasurer, to be by him paid out of the lighthouse fund. *And be it further enacted*, that from and after the execution of a certificate aforesaid, the said Cæsar shall be manumitted and set free to all intents and purposes.

The executive to purchase and manumit Cæsar a negro slave.

CHAP. LXXXV.

An act manumitting two negro men slaves, belonging to the Commonwealth.

(Passed the 30th of October, 1789.)

Preamble. WHEREAS Jack Knight and William Boush, two negro men slaves, belonging to this Commonwealth, have faithfully served on board the armed vessels thereof, for some years past, and the said armed vessels are no longer continued on public establishment; *Be it enacted by the General Assembly*, that the said Jack Knight and William Boush are hereby manumitted, set free and discharged from servitude, to all intents and purposes. Saving however to all persons and bodies politic and corporate, other than those claiming under the Commonwealth, all legal or equitable rights, which they might have asserted to the said slaves if this act had never been made.

Two slaves belonging to the Commonwealth, manumitted.

Rights of all claimants, other than the Commonwealth, saved

CHAP. LXXXVI.

An act for vesting in trustees the interest which the Commonwealth now hath or hereafter may have in a tract of land, whereof John Calder died seized.

(Passed the 12th of December, 1789.)

Sect. 1. WHEREAS it hath been represented to the present General Assembly, that John Calder departed this life in the year one thousand seven hundred and eighty-two, intestate and without heirs, leaving a personal estate not sufficient for the payment of his debts and possessed of a tract of land in the county of Halifax, which has become escheatable to the Commonwealth, and it is more agreeable to the principles of justice that the said lands should be applied to the discharge of the debts of the said John Calder, than that the public should be benefitted thereby, *Be it therefore enacted by the General Assembly*, that all the right and interest which the Commonwealth now hath to the said tract of land, so lying

Preamble.

Interest of the Commonwealth in a

certain tract of land, vested in trustees,

and being in the county of Halifax as aforesaid, or which may hereafter be established therein by an office to be found, shall be and the same is hereby vested in John Coleman, George Carrington, William Terry, William Thompson, junior, and Henry E. Coleman, gentlemen trustees, or the survivor or survivors of them.

To be sold, when and how;

SECT. 2. When the right of the Commonwealth to the said land shall be fully established, agreeably to the directions of the act intitled "An act concerning escheators," the said trustees or the survivor or survivors of them, shall, when required by Daniel M'Callum administrator of the said John Calder deceased, sell the said tract of land for the best price that can be gotten.

Purchase money, to whom to be paid, and how to be applied;

SECT. 3. The purchase money for the said land shall be paid to the said Daniel M'Callum, administrator of the goods and chattels of the said John Calder deceased, to be applied by him in a due course of administration to the discharge of the debts of the said decedent, and in case there should be any surplus after paying such debts, the same shall by the said administrator be paid into the public treasury.

Rights of all claimants other than the Commonwealth, saved.

SECT. 4. Saving however to all persons and bodies politic and corporate, other than those claiming under the Commonwealth, all legal or equitable rights which they might have asserted to the said land or any part thereof.

CHAP. LXXXVII.

An act appointing trustees for the purpose of purchasing certain slaves for the use and benefit of the children of James Bullock, deceased.

(Passed the 1st of December, 1789.)

Preamble,

SECT. 1. WHEREAS James Bullock late of the county of Bedford, died some time in the year one thousand seven hundred and eighty-four, leaving a widow with five small children, and possessed of ten slaves, five only of whom were labourers and from whose labour his family were supported, since whose death, one of the most valuable

of the said slaves was before the court of Campbell county convicted of felony and executed, and was valued to the sum of one hundred pounds. And whereas Hannah Bullock, widow and administratrix of the said James Bullock, hath petitioned the General Assembly, to appoint trustees for the purpose of laying out the money aforesaid in the purchase of other slaves, and it is represented that the said James Bullock died free from debt. *Be it therefore enacted by the General Assembly*, that Robert Clark, senior, William Henderson, William Crawford, Christopher Clark and John Trigg, gentlemen, shall be and they are hereby appointed trustees, for the following purposes, that is to say, the said trustees or any three of them, shall immediately upon receipt of this act, demand of the administratrix of the said James Bullock deceased, the amount of the valuation of the slave so executed, and upon the receipt thereof, shall proceed to lay out the same in the purchase of other slaves.

Trustees appointed to lay out a sum of money in the purchase of slaves;

SECT. 2. So soon as the said trustees shall have purchased such slaves, they shall be vested in the heir at law and other children of the said James Bullock, in the same manner as the slave so executed as aforesaid was vested in them by law, at the time of his valuation; but all creditors and other persons whatsoever, and especially the said administratrix, shall be at liberty to assert the same right to the slaves so to be purchased as aforesaid, which they or any of them might have asserted to the slave so executed as aforesaid, were he now alive.

To be vested in the children of James Bullock;

Rights of creditors and others saved.

CHAP. LXXXVIII.

An act concerning a lot in the town of Hampton whereof Michael Council died seized.

(Passed the 4th of December, 1789.)

SECT. 1. WHEREAS it is represented, that a certain Michael Council of the county of Elizabeth-city, departed this life in the year one thousand seven hundred and eighty-four, intestate and without heirs, seized in his demesne as of fee, of part of a lot in the town of Hampton, which is therefore liable to escheat, and the said Michael Council was considerably indebted at the time

Preamble.

Escheator of Elizabeth City to take an inquest on a certain lot of land;

If found for the Commonwealth to be vested in trustees, to be sold, when and how;

of his death; *Be it enacted by the General Assembly*, that the escheator of the said county, shall forthwith proceed to take an inquest thereon according to law; and that if an office be found for the Commonwealth, the lot or part of a lot as aforesaid, shall be vested in Miles King, Robert Brough, John Rogers, George Wray, junior, and Charles Jennings, gentlemen trustees, to be by them or any three of them, sold at public auction, after reasonable notice of the time and place of sale, for the best price that can be had at twelve months credit, taking bond with sufficient security, and that the said trustees or any three of them, shall convey the said lot to the purchaser or purchasers in fee simple.

Purchase money how to be applied.

SECT. 2. The money arising from the sale of the said lot or part of a lot, shall be applied by the said trustees to the payment of the just debts of the said Michael Council in the first place, and the balance, if any, paid into the public treasury.

CHAP. LXXXIX.

An act giving William Pennock the exclusive right of conveying persons in stage carriages, to and from certain places for a limited time, and for other purposes.

(Passed the 19th of December, 1789.)

Preamble,

SECT. 1. WHEREAS it is represented that William Pennock hath laid out and expended a considerable sum of money in the purchase of carriages and horses, for the purpose of conveying persons and baggage between Richmond and Petersburg, and the said William Pennock hath made application to this Assembly, to grant him the exclusive privilege of conveying persons and their baggage between the aforesaid places for the term of three years, to commence from and after the expiration of the privilege of Richard Towns and John Woolfolk therein, which it is judged reasonable to do: *Be it therefore enacted by the General Assembly*, that the said William Pennock shall from and after the nineteenth day of December, one thousand seven hundred and ninety, have the sole and exclusive right of conveying for hire, persons in stage

Exclusive privilege of conveying persons in stages between certain places for a limited time granted to William Pennock.

carriages between Richmond and Petersburg, and to and from any intermediate place or places for and during the term of three years thence next following: and shall and may demand and take for each passenger three-pence per mile, and three-pence per mile for every hundred and fifty pounds weight of baggage, exceeding fourteen pounds conveyed in the said stage carriages. Rate for each passenger and baggage.

SECT. 2. If the said William Pennock by himself or any other shall demand or receive any greater rates than are hereby allowed, he shall forfeit and pay the sum of fifty pounds, to be recovered with costs by action of debt, bill, plaint or information in any court of record, to the use of the party injured. Penalty for demanding more than the rate, how to be recovered and applied.

SECT. 3. And if the said William Pennock shall undertake to carry any passenger or baggage to any of the places herein mentioned, or any part of such distance, and shall fail to do so, either by such stage breaking down, or by any other means, he shall refund whatever he may have received, or forfeit what he might be entitled to receive for such service. To be refunded, in what case;

SECT. 4. If any person or persons, other than the said William Pennock, his agents or servants, establish or run any stage carriages between the before-mentioned places, or any intermediate place or places, and demand or take directly or indirectly any fee or reward whatsoever for conveying any person or persons, or their baggage, in a stage carriage or carriages between the before-mentioned places, or any intermediate place or places during the term aforesaid, he or they so offending shall forfeit and pay for every stage so run or established, the sum of one hundred pounds, and for every person, or one hundred and fifty pounds of baggage, by him or them so conveyed, the sum of ten pounds, to be recovered with costs, by action of debt, bill, plaint or information, in any court of record, to the use of the said William Pennock. Penalty on any other conveying persons in such carriages between the same places. How to be recovered and applied.

SECT. 5. The said William Pennock shall on or before the first day of May, one thousand seven hundred and ninety-one, enter into bond with sufficient security in the general court, or in the court of the county of Chesterfield, in the sum of one thousand pounds, payable to the governor and his successors, for the use of the Commonwealth, with condition for the due and faithful keeping up the said line of stages for and during the term aforesaid. Pennock to give bond and security, when and where, and to whom payable. Condition thereof.

Two acts giving like privileges to John Hoomes,

and to Richard Towns and John Woolfolk, continued,

for what time.

SECT. 6. *And be it further enacted*, That the two acts of Assembly, the one intituled "An act giving John Hoomes the exclusive privilege of conveying persons in stage carriages between certain places for a limited time," and the other intituled "An act giving Richard Towns and John Woolfolk the exclusive right of conveying persons in stage carriages to and from certain places for a limited time," shall from and after the expiration thereof respectively, continue and be in force for and during the term of three years thence next following.

Pennock's privilege to cease if Towns and Woolfolk fail to give bond, &c.

SECT. 7. *Provided nevertheless*, That if the said Towns and Woolfolk, or some other person or persons on their behalf, do not give bond and security according to law, this act shall be void and of none effect, so far as it affects the said William Pennock.

CHAP. XC.

An act for vesting part of the estate of John Blatt deceased, in Henry Vass and his heirs.

(Passed the 4th of December, 1789.)

Preamble,

SECT. 1. WHEREAS John Blatt late of the county of Fairfax, sometime in the year one thousand seven hundred and eighty-three, became felo de se, whereby his personal estate is subject to forfeiture; and application hath been made to this Assembly to vest such part thereof in Henry Vass of the county of Middlesex, as was left in his possession, which it is reasonable should be done, it being represented, that it was the wish and intention of the said John Blatt, that the same should descend to and be held by the said Henry Vass; *Be it therefore enacted by the General Assembly*, that all right, title, interest, claim, and demand which now exists in the Commonwealth, or upon any office hereafter to be found, shall be established therein, to the said estate of the said John Blatt deceased, shall be and the same is hereby vested in the said Henry Vass.

Interest of the Commonwealth in the personal estate of John Blatt, vested in Henry Vass;

Rights of all other claimants saved.

SECT. 2. Saving nevertheless the rights legal and equitable of all and every person or persons, bodies politic or corporate, except of the Commonwealth, and those claiming under it, in and to the said personal estate, and every part thereof.

IN THE HOUSE OF DELEGATES.

December 11, 1789.

THE General Assembly of Virginia, considering it as one among the important privileges of the people, that they should have free admission to hear the debates of the Senate as well as of the House of Representatives, whenever they are exercising their legislative functions;

Resolved therefore, That the Senators of this state in the Senate of the United States, be instructed to use their utmost endeavours, to procure the admission of the citizens of the United States, to hear the debates of their house, whenever they are sitting in their legislative capacity.

December 16, 1789.—Agreed to by the Senate.

AT A

GENERAL ASSEMBLY,

Begun and held at the Capitol in the city of Richmond, on Monday, the eighteenth of October, in the year of our Lord, one thousand seven hundred and ninety, and in the 15th year of the Commonwealth.

Beverley Randolph, Esq. Governor.

CHAP. I.

An act concerning the Taxes of the year one thousand seven hundred and ninety.

(Passed the 28th of December, 1790.)

Rates at which the taxes of 1790 may be discharged.

SECT. 1. *BE it enacted by the General Assembly*, That the taxes on lands, slaves and other property, enumerated by this act, which became due on the first day of November, one thousand seven hundred and ninety, shall and may be discharged by making payment thereof, at the rates and proportions herein after mentioned, viz. on lands, for every hundred pounds value, agreeably to the equalizing law, the sum of seven shillings and sixpence; for all slaves above the age of twelve years, the sum of two shillings and sixpence each; except such as have been or shall be exempted by the respective county or corporation courts; for every stud horse, the price at which such horse covers a mare the season; for all other horses, mules, mares and colts, sixpence each; for all ordinary licenses forty shillings each; for all billiard tables fifteen pounds each; for all lots and houses in towns one and a quarter per cent. on the rents thereof, to be ascertained in the manner prescribed by the act "Imposing new taxes;" for every coach, chariot or post-chaise, at the rate of nine shillings for each wheel; for all other riding carriages with four wheels, six shillings

for each wheel; for all other riding carriages with two wheels, three shillings for each wheel.

Certain lands exempted from taxes.

SECT. 2. *Provided always*, That no tax shall be collected on lands, lots, houses or other property belonging to this Commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

No taxes payable on deeds, wills and administrations.

SECT. 3. *And be it further enacted*, That so much of all and every act or acts as imposes a tax on deeds, wills and administrations, shall be, and the same is hereby repealed.

SECT. 4. All sheriffs and collectors of public revenue, are required in the collection and receipt of the above mentioned taxes, to govern themselves accordingly, and where more than the amount aforesaid hath been received, to restore the surplus thereof to the person or persons entitled thereto.

Taxes of 1790 when to be distrained for;

SECT. 5. No distress shall be made for any tax which became due on the first day of November, one thousand seven hundred and ninety, until the first day of May, one thousand seven hundred and ninety-one.

In what payable; and when to be accounted for.

SECT. 6. All the taxes aforesaid shall be accounted for and paid in the same manner and under the same penalties, as the laws under which they respectively arise, prescribe, (except that they shall be collected in specie only) and may be accounted for and paid into the public treasury at any time before the first day of October, one thousand seven hundred and ninety-one.

Arrearages of taxes, how to be collected and accounted for.

SECT. 7. Nothing herein contained shall be construed to affect any arrearages of taxes which became due prior to the first day of November, one thousand seven hundred and ninety; but the same shall be collected, accounted for and paid in like manner as if this act had not been made, except only, that all taxes and arrears of taxes may be paid into the public treasury by the several sheriffs and collectors, without rendering any account thereof to the several county and corporation courts respectively, any law to the contrary notwithstanding.

SECT. 8. So much of every act as comes within the purview of this act, shall be and the same is hereby repealed.

When this act commences.

SECT. 9. This act shall commence and be in force from and after the thirty-first day of December, one thousand seven hundred and ninety.

CHAP. II.

An act to repeal in part certain laws of Revenue.

(Passed the 28th of December, 1790.)

No warrants receivable in discharge of the taxes of 7790—

Certain warrants not to be paid out of the revenue of 1790,

SECT. 1. *Be it enacted by the General Assembly*, That so much of any act or acts of Assembly as authorises the several sheriffs or collectors of the public revenue, to receive warrants in payment of any of the revenues of the year one thousand seven hundred and ninety; and so much of any act or acts of Assembly as authorises the treasurer to pay any of the warrants issued, or which shall be hereafter issued for the interest on the military certificates, loan-office certificates, and certificates for paper money funded, or any warrants charged, or which may be charged on the aggregate fund, from the money arising from any of the said revenues of the year one thousand seven hundred and ninety, shall be and the same is hereby repealed.

but receivable in discharge of certain arrearages of taxes.

SECT 2. *Provided always*, That the said warrants for interest on the military certificates, on the loan-office certificates, and certificates for paper money funded, and all warrants now charged, or which hereafter shall be charged on the aggregate fund, shall be receivable in payment of all arreages of the taxes which became due before the first day of November, one thousand seven hundred and ninety, on lands, slaves, lots and houses, horses, mares, colts, mules, coaches, chariots, post-chaises, phætons, chairs, and other riding carriages, on ordinary licenses, and billiard tables; any act or part of an act to the contrary notwithstanding.

When this act commences.

SECT. 3. This act shall commence in force on the first day of January, one thousand seven hundred and ninety-one.

CHAP. III.

An act to repeal so much of the act imposing new taxes, and of all other acts which impose a tax on the clerks of Courts.

(Passed the 16th of December, 1790.)

The act imposing new taxes repealed in part.

SECT. 1. *BE it enacted by the General Assembly*, That so much of the act of Assembly passed in the year one thousand seven hundred and eighty-six, intitled "An act imposing new taxes;" and of every other act or acts, which impose a tax on the clerks of courts in this state, or appropriates certain portions of the fees of such clerks and enforces the payment thereof, shall be and the same is hereby repealed.

SECT. 2. Nothing herein contained shall be construed so as to affect the payment of any arrearages due from any clerks of courts before the passing of this act, but the same may be demanded, prosecuted for, and recovered, in like manner as if this act had never been made.

Rate at which tobacco for clerks' fees may be discharged.

SECT. 3. *And be it further enacted*, That all persons who shall be chargeable with any tobacco fees due to clerks, may discharge the same, either in tobacco or specie, at the rate of ten shillings and five pence per hundred upon the gross tobacco:

An act concerning surveyors repealed in part.

SECT. 4. So much of the act, intituled "An act for reducing the several acts of Assembly concerning surveyors into one act, and for paying clerks and other officers fees" as comes within the purview of this act, shall be, and the same is hereby repealed.

When this act commences.

SECT. 5. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-one.

CHAP. IV.

An act to repeal part of the act imposing new Taxes.

(Passed the 20th of December, 1790.)

The act imposing new taxes repealed in part.

SECT. 1. *BE it enacted by the General Assembly*, That so much of the act, intitled "An act imposing new

taxes," as imposes a tax on attornies, merchants, physicians, surgeons and apothecaries, shall be, and the same is hereby repealed.

SECT. 2. Nothing herein contained, shall be construed in any manner to affect the payment of any arrearages of taxes heretofore imposed on attornies, merchants, physicians, surgeons and apothecaries, but the same may be demanded, prosecuted for, and recovered in like manner as if this act had never been made.

SECT. 3. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-one. When this act commences.

CHAP. V.

An act to amend the act, intitled "An act to remedy abuses in the manner of selling lands, for the payment of public taxes.

(Passed the 27th of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That so much of all and every act and acts as directs the sale of any lands for the payment of the tax thereon, shall be, and the same is hereby repealed. Parts of certain acts repealed.

SECT. 2. *And be it further enacted*, That each sheriff or collector of the taxes within this commonwealth, shall at the time he returns a list of other insolvents, return a list of the lands within his county or corporation, where he cannot find effects within the same belonging to the owner or tenant thereof, sufficient to satisfy and pay the tax. And if the court shall be satisfied of the truth thereof, they shall admit the sheriff or collector to make oath thereto, and direct the same to be certified to the auditor of public accounts, together with the names of the owners of each tract of land, and the place of his or her abode, where the court can obtain such information. Duty of the sheriffs when the tax on land, cannot be collected; Of the county courts;

SECT. 3. The auditor shall credit the same in account for the land tax with such sheriff or collector. And where it shall appear to the auditor from the certificates of the county courts, or where he shall be satisfied from of the auditor.

any other information that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property in some other county of this commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable to the sheriff or collector of the county in which such person may reside, or have slaves or personal property as the case may be, and shall debit such sheriff or collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor in the like manner as for other taxes of his county.

Of the clerks of the county courts,

SECT. 4. A list of these insolvents, with the amount of the tax due from them respectively, shall be furnished by the clerk of the court to the collector of the tax for the succeeding year, and he shall also transmit a copy thereof to the auditor of public accounts, who shall debit the sheriff or collector therewith, and such sheriff or collector shall distrain and account for the same in like manner as for other taxes. And in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the treasurer shall cause to be inserted in the Virginia Gazette, for three weeks successively, the names of such delinquents, with the quantity of land, the situation thereof, and the taxes due thereon.

And of the treasurer.

When land shall be forfeited for non-payment of the taxes; How a right thereto may be acquired.

SECT. 5. *And be it further enacted*, That in case the tax on any tract of land within this commonwealth shall not be paid for the space of three years, the right to such lands shall be lost, forfeited and vested in the commonwealth; and it shall be lawful for any person to acquire a title to any land so forfeited, in the manner prescribed for acquiring titles to waste and unappropriated lands within this commonwealth, on the eastern waters, by an act, intitled "An act to dispose of the waste and unappropriated lands in the commonwealth of Virginia, on the eastern waters."

Exception in favor of certain persons.

SECT. 6. *Provided always*, That nothing herein contained shall affect the right of infants, femes covert, or non compos mentis who shall be allowed three years to save the same from forfeiture after such disability be removed.

Tenant paying the tax to be credited in the rent.

SECT. 7. And where any tenant shall be distressed for the taxes due from the proprietor of the land, he shall have credit for the same against such proprietor out of

the rents he may owe him, but this act shall not be construed to destroy or impair any contract, by which the tenant may be bound to pay the said land tax, or any part thereof.

Sheriffs collecting arrears to conform to this act.

SECT 8. *And be it further enacted*, That the sheriffs and collectors who have failed to complete their collections, shall conform to the rules and regulations prescribed by this act. Any law to the contrary thereof notwithstanding.

When this act commences.

SECT. 9. This act shall commence and be in force on the first day of January, one thousand seven hundred and ninety-one.

CHAP. VI.

An act remitting certain militia fines, and for other purposes.

(Passed the 25th of December, 1790.)

Preamble.

SECT. 1. WHEREAS doubts have arisen since the adoption of the federal constitution, whether the several acts of this commonwealth concerning the militia are in force, in consequence whereof great inequalities have prevailed in the operation of the said laws, in the several counties in this state; In order, therefore, to remove such doubts, and render the operation of the said laws in future, more equal and uniform;

Militia laws declared to be in force.

SECT. 2. *Be it enacted by the General Assembly*, That the several acts "For regulating and disciplining the militia, and for guarding against invasions and insurrections," shall be, and the same are hereby declared to be in force until the Congress of the United States shall pass a law or laws upon this subject.

Militia fines imposed, since a certain day remitted;

SECT. 3. *And be it further enacted*, That all militia fines imposed since the adoption of the federal constitution, shall be and the same are hereby remitted: and where any fines have been imposed and not yet collected, the same shall not be received by the officer or officers appointed to collect the same; where fines have been collected and not actually applied as the law directs, the same shall be refunded to the persons respectively, or

their legal representatives, from whom they were collected, and where such fines have been collected and actually applied as the law directs, the persons from whom the same were collected, or their legal representatives, shall be refunded a like sum out of the first militia fines, which may be hereafter collected; any thing in any law to the contrary hereof notwithstanding.

SECT. 4. *And be it further enacted*, That it shall be the duty of the county-lieutenants, or commanding officers of the militia in each county, to give orders and take necessary measures for carrying this act into full effect.

Excepting those imposed in certain districts.

SECT. 5. *Provided always*, That nothing herein contained, shall be construed to remit any fines imposed upon the militia of the district of Kentuckey, or in the senatorial district of Monongalia.

CHAP. VII.

An act for amending the acts concerning the court of appeals.

(Passed the 25th of October, 1790.)

Sessions of the court.

SECT. 1. *BE it enacted by the General Assembly*, That instead of the twentieth day of June and the twentieth day of November, the court of appeals shall henceforth be holden on the first day of June and the first day of November in every year, or when that shall happen to be Sunday, on the succeeding day, and shall sit each time until the business depending before them shall be dispatched.

Judges summoned, to attend on the first day of the term;

SECT. 2 Whensoever a summons shall issue to the judge of the high court of chancery, or to the judges of the general court, as directed by "An act for amending the acts concerning the court of appeals," passed in the year one thousand seven hundred and eighty-nine, the same shall require their attendance on the first day of the following session, of the court of appeals.

Oaths to be taken by them.

SECT. 3. Each judge attending in consequence of such summons, shall in open court take an oath to do his duty as a judge of appeals in the case or cases on which he

is summoned, impartially and truly without favor or affection, which oath shall be administered by the eldest sitting judge, and shall then be administered to him, if he shall not before have qualified as a judge of the court of appeals, by one other of the judges.

CHAP. VIII.

An act to amend the act intitled "An act authorizing the treasurer to receive specie by weight.

(Passed the 21st of December, 1790.)

Rate at which specie is to be received at the treasury

BE it enacted by the General Assembly, That from and after the first day of April, one thousand seven hundred and ninety-one, cut silver coin shall be received into the public treasury at the rate of six shillings and eight pence an ounce, and not otherwise; any law or part of a law to the contrary notwithstanding. This act shall continue in force two years and thereafter, until the end of the next session of assembly and not longer.

CHAP. IX.

An act to remove certain doubts concerning the proceedings of the Court of Appeals in their present session.

(Passed the 25th of November, 1790.)

Preamble

SECT. 1. WHEREAS by the indisposition of some of the judges of the court of appeals, and other accidents, it hath happened that only two of them met on the first day of the present term, who adjourned the court 'till next day, and then members sufficient to constitute a court attending, they have continued the adjournment from day to day, without proceeding to other business, doubts having arisen whether the said adjournment le

gally authorized the court, to proceed in their present session; to remove which doubts and prevent delay in the administration of justice, *Be it enacted by the General Assembly*, that the aforesaid adjournment by the two judges on the first day of the present term of the said court, shall be sufficient to authorize the court to proceed in the business of their session in the same manner, and shall be as effectual to every other intent and purpose, as if the same had been made by a full court.

Adjournment on the first day of a certain term declared sufficient.

Regulations respecting adjournments in future.

SECT. 2. And to prevent the like inconvenience for the future, *Be it further enacted*, That if a sufficient number of judges to constitute a court shall not attend on the first day of any term of the said court of appeals, it shall be lawful for any one judge thereof to adjourn the court from day to day for four days successively, or until a sufficient number shall attend; and if that shall not happen before four of the clock on the fourth day, then the court shall stand adjourned, and all suits depending therein continued to the next court. And if during any session, after a court shall have been constituted, three judges shall not attend to make a court, there shall be no discontinuance of the term, but the court shall stand adjourned from day to day 'till a sufficient number shall attend, provided that shall happen in four days; and if it does not, then the term and suits shall stand adjourned to the next court as before directed.

CHAP. X.

An act giving further time to the owners of entries on the Western waters to survey the same.

(Passed the 8th of November, 1790.)

Preamble.

WHEREAS the act of Assembly passed in the year of our Lord one thousand seven hundred and eighty-five, intituled "An act to repeal an act intituled an act concerning entries and surveys on the Western waters, and for other purposes," which was continued by a subsequent act, will expire during the present session of Assembly, and it is expedient, that the same should be further con-

tinued: *Be it therefore enacted by the General Assembly*, That the further time of two years shall be allowed to the owners of entries on the Western waters, to comply with the requisitions of the above recited act, during which time, no such entry shall be forfeited.

Entries on the Western waters when to be surveyed.

CHAP. XI.

An act for granting relief to certain persons migrating into this State.

(Passed the 17th of December, 1790.)

WHEREAS it hath been represented to this present General Assembly that many persons who have migrated into this state, and have become citizens of this Commonwealth, have failed to take the oath within the time prescribed by the act intitled "An act for preventing the farther importation of slaves," and that such failure proceeded from their being strangers to the laws of this state at the time of such removal, and it is reasonable that they should be exonerated from the pecuniary penalties to which they are liable in consequence of such failure: *Be it therefore enacted by the General Assembly*, That all persons who have so removed into this state may take the oath aforesaid on or before the first day of October one thousand seven hundred and ninety-one, and the taking thereof shall be as effectual to exonerate them from the pecuniary penalties of the said recited act, as if it had been taken within the time prescribed by law. Any law to the contrary thereof notwithstanding.

Preamble.

Oaths to be taken by persons bringing slaves into the state.

CHAP. XII.

An act concerning the High Court of Chancery.

(Passed the 21st of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That so much of the act intitled "An act for amending the

Sessions of the court.

several acts of the General Assembly, concerning the High Court of Chancery," as directs the said court to set on the first, or when that shall happen to be Sunday, on the second day of August in each year, shall be and the same is hereby repealed.

SECT. 2. *And be it further enacted*, That the sessions of the said court directed to be holden on the first, or when that shall happen to be Sunday, on the second day of March in every year, shall henceforth continue for eighteen juridical days successively, unless the business therein depending shall be sooner dispatched.

SECT. 3. And whereas inconveniencies have been experienced in the remote parts of this state from the regulation of the high court of chancery, which authorises a decree, unless the defendants answer shall be filed within three months after the bill filed, and the subpœna served; *Be it therefore enacted*, That in suits in the said court, no bill shall be taken for confessed for want of an answer after a subpœna served, until an attachment shall be returned served on the defendant, or that a copy thereof hath been left at his or her usual place of abode or last residence.

When bills may be taken for confessed.

CHAP. XIII.

An act to amend the act, intituled "An act directing the course of descents."

(Passed the 24th of December, 1790.)

When lands of an intestate may be sold;

SECT. 1. *BE it enacted by the General Assembly*, That whensoever any lands shall descend from a person dying intestate to two or more heirs, any one of whom shall be an infant, feme covert, non compos mentis or beyond sea, and the dividend of each heir shall not exceed the value of thirty pounds in the opinion of any court herein after mentioned, it shall be lawful for the high court of chancery, or the court of the county or corporation in which such lands or the greater quantity of them lieth, to direct the sale of the said lands, and the distribution of the money arising therefrom, according to the rights of each claim-

ant: *Provided always*, That each heir residing within this Commonwealth, shall be first duly summoned to shew cause, if any he can, against such sale; and where any heir shall reside without this Commonwealth, the Court shall make an order for publication, which order being inserted in the Virginia Gazette for eight weeks successively, shall be considered as a summons.

When slaves of an intestate may be sold.

SECT. 2. Where one or more slaves shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property, it shall be lawful for the high court of chancery, or the court of the county or corporation, by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves, and the distribution of the money arising therefrom, according to the rights of each claimant. *Provided always*, That each claimant shall be first duly summoned to shew cause, if any he can, against such sale.

Course of descents in certain cases.

SECT. 3. Where an infant shall die without issue, having title to any real estate of inheritance derived by purchase or descent from the father, the mother of such infant shall not succeed to or enjoy the same or any part thereof, by virtue of the above recited act, if there be living any brother or sister of such infant, or any brother or sister of the father, or any lineal descendant of either of them. Saving however, to such mother any right of dower which she may claim in the said real estate of inheritance.

SECT. 4. Where an infant shall die without issue, having title to any real estate of inheritance, derived by purchase or descent from the mother, the father of such infant shall not succeed to or enjoy the same or any part thereof by virtue of the said recited act, if there be living any brother or sister of such infant, or any brother or sister of the mother, or any lineal descendant of either of them; saving however, to such father the right which he may have as tenant by the curtesy in the said estate of inheritance.

Alienage of an ancestor no bar in a title by descent.

SECT. 5. In making title by descent in any suit whatsoever, it shall be no bar to a party, that an ancestor, through whom he derives his descent from the intestate, is, or hath been an alien.

Rights of parceners.

SECT. 6. One parcener may maintain an action of waste against another, but no parcener shall have or possess any privilege over another in any election, division

matter to be made or done, concerning lands which shall have descended to them.

SECT. 7. So much of all acts as comes within the purview of this act, and particularly of the act intitled "An act directing the course of descents," shall be and the same is hereby repealed.

CHAP. XIV.

An act for giving further time to the owners of surveys to return the plats and certificates thereof into the land-office.

(Passed the 8th of November, 1790.)

Preamble.

SECT. 1. WHEREAS the law authorizing the register of the land-office to receive into his office plats and certificates of surveys, that have been or shall be made, will expire on the last day of December one thousand seven hundred and ninety, and it is represented to this General Assembly, that many persons through unavoidable accidents have been prevented from returning their plats and certificates aforesaid to the register of the land office, whereby their lands may be forfeited: For remedy whereof, *Be it enacted by the General Assembly*, That the further time of nine months after the passing of this act, shall be allowed for returning the same, within which time the register of the land office or his deputy, shall receive all plats and certificates of survey, although not returned within the time heretofore limited by law; and such lands shall not be considered as forfeited, or liable to forfeiture on that account.

When certificates of surveys on the Western waters must be returned.

SECT. 2. And whereas the act of Assembly passed in the year one thousand seven hundred and eighty-six, intitled "An act for reviving, continuing and amending an act, to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights and for other purposes," which was continued by a subsequent act, will expire on the thirty-first day of December one thousand seven hundred and ninety, and it is

expedient, that the owners of entries and surveys on the Eastern waters should be allowed a further time to comply with the requisitions of the said act. *Be it therefore enacted by the General Assembly*, That so much of the said recited act, as relates to the entries and surveys of land on the Eastern waters shall continue and be in force until the thirty-first day of May, one thousand seven hundred and ninety-one.

Entries and surveys on the Eastern waters.

CHAP. XV.

An act concerning an advance of money to the government of the United States for public buildings.

(Passed the 27th of December, 1790.)

WHEREAS the General Assembly of Maryland have acceded to a proposition of the General Assembly of this Commonwealth contained in their resolution of the tenth day of December one thousand seven hundred and eighty-nine, concerning an advance of money to the general government to be applied towards erecting public buildings at the permanent seat of the government of the United States, should the Congress deem it expedient to fix it on the bank of Patowmack; and whereas Congress have passed an act for establishing the said seat of government on the Patowmack: *Be it enacted by the General Assembly*, That one hundred and twenty thousand dollars shall be advanced by this Commonwealth to the general government payable in three equal yearly payments, and to be applied towards erecting public buildings at the permanent seat of the government of the United States on the bank of Patowmack: And the auditor of public accounts is hereby directed to issue his warrants on the treasurer to the amount of one hundred and twenty thousand dollars payable in manner herein before directed, to the order of the President of the United States.

Preamble.

Sum of money to be advanced for public buildings at the Federal seat of government

CHAP. XVI.

An act to amend and explain so much of the laws of revenue as directs the allowance to be made the Commissioners of the land-tax for their services.

(Passed the 25th of December, 1790.)

Preamble.

SECT. 1. WHEREAS doubts have arisen whether the commissioners of the tax in the several counties in this state are not entitled to twenty pounds under the law for equalizing the land tax, and also to six shillings a day for their services under the act intitled "An act to amend the act intitled an act for ascertaining certain taxes and duties and for establishing a permanent revenue," for removing which doubts, *Be it enacted*, That in future the commissioners shall be intitled to six shillings per day from the Commonwealth for their public services, and no more.

Allowances to commissioners of the taxes for public services;

SECT. 2. The commissioners shall in future be allowed two shillings and six pence for every alienation or division of lands noted by them in their books and no more. Any law to the contrary notwithstanding.

For noting alienations, &c. in their books;

SECT. 3. *And be it further enacted*, That the court of each city and corporation shall make such allowance to the clerk for his services which have or may be performed under the last recited act, as they shall think reasonable, which shall be levied on the tithables within the same.

To the clerks of city and corporation courts.

SECT. 4. It shall be the duty of the general court at their next session to judge and determine whether under the laws then in force, the said commissioners were entitled to receive from the public the sum of twenty pounds annually; and if the court shall determine that they were not intitled to the said sum of twenty pounds, the auditor shall withhold any warrants in future from those commissioners who have not yet drawn the same; *And further*, in case of such determination of the court, the executive are hereby directed and required to use all legal means for the recovery of the money which hath been so paid to such commissioners or their assigns.

General court to determine question respecting the allowance to the commissioners.

CHAP. XVII.

An act concerning Sheriffs and Collectors of the Public Revenue.

(Passed the 27th of December, 1790.)

The executive authorized to remit damages on judgments against sheriffs.

SECT. 1. *BE it enacted by the General Assembly*, That the executive shall and they are hereby authorised and required upon application to them made, to remit all damages accruing on any judgment which hath been obtained, or balance due against any sheriff or collector of the public revenue, or their security or securities, for taxes due prior to the first day of October, one thousand seven hundred and ninety: *Provided* that such sheriff or collector, or their security or securities making application as aforesaid, shall produce to the executive a full statement of his or their account or accounts, accompanied with a receipt or receipts from the auditor of public accounts, for the principal sum due on such judgment, together with the legal interest due thereon, and costs on or before the first day of May next.

Regulations respecting petitions from sheriffs.

SECT. 2. *And be it further enacted*, That no petition or petitions shall in future be received from any sheriff or collector of the public revenue, or their security or securities, or from any person or persons directly or indirectly in their behalf, unless such sheriff or collector shall previous to such application, advertise at the door of his courthouse on one court day at least, a list of the persons in arrears for taxes in his county, together with the balances due from such persons respectively, making oath to the same before the court of the county in which he or they respectively reside, which oath shall be committed to record, and list filed in the clerk's office, and the said sheriff or collector shall produce an attested copy of such advertisement, together with copies of the list and certificate aforesaid, signed by the clerk of his or their respective county courts.

CHAP. XVIII.

An act to continue two acts passed in the year one thousand seven hundred and eighty-eight, directing the mode of proceeding under certain executions.

(Passed the 27th of December, 1790.)

Preamble.

WHEREAS the act of Assembly, intitled "An act directing the mode of proceeding under certain executions," will expire on the fourth day of January, one thousand seven hundred and ninety-one; *Be it enacted by the General Assembly*, That the said recited act, and one other act of Assembly, intitled "An act to amend the act directing the mode of proceeding under certain executions," shall be revived and continued from and after the said fourth day of January, one thousand seven hundred and ninety-one, for and during the term of twelve months. Any thing in any law to the contrary notwithstanding.

Two acts respecting proceedings on executions continued.

CHAP. XIX.

An act concerning the Hospital for the reception of persons of unsound mind.

(Passed the 16th of December, 1790.)

Cells and outhouses to be erected.

SECT. 1. *BE it enacted by the General Assembly*, That it shall be lawful for the court of directors of the Hospital for the reception of persons of unsound mind, to cause to be constructed three additional cells to the said hospital, and also to have such outhouses erected, as may appear to them necessary. And the auditor of public accounts is hereby directed to grant to the said court of directors, a warrant on the treasurer for any sum of money not exceeding one hundred pounds, to be paid out of any public money in his hands, for the purpose of defraying the expences of constructing and erecting the same.

SECT. 2. *And be it further enacted*, That when any insane person, shall hereafter be removed to the said hospital, the justices before whom such person shall be examined, shall cause a certificate of the estate of such insane person (if any there be) and of the probable annual profits arising therefrom to be sent to the said directors, together with the proceedings directed by law to be forwarded in every such instance of removal, and shall also certify such removal and the insane's estate to the next court to be holden for the county, city or borough whence such removal was. On receipt of such certificate it shall be lawful for the said court of the county, city or borough as aforesaid, to appoint a committee into whose hands shall be committed such insane's estate for the safe keeping and good management thereof; which committee shall have power to sue for, and recover all debts due to and be liable to be sued for all debts due from such insane person, in the same manner as executors to deceased persons are or may be, and out of the profits of such insane person's estate, the said court may direct to be defrayed, the expences attending as well the removal as the annual support of every such person whilst remaining in the said hospital, to be paid to the said court of directors: *Provided nevertheless*, That such court may allow a reasonable support to the family of such insane person (if any he hath) out of his estate, so that neither the expences attending such insane person, nor the allowance to his family, shall defeat the claims of the creditors of such insane person.

Certificates of the estate of persons insane to be sent with them;

Committees to be appointed to manage their estates.

Their powers.

Profits of insane's estates, how to be applied.

SECT. 3. Upon the appointment of any such committee by any county, city or borough court, such court shall take bond with good security in a sufficient penalty, for the true and faithful performance of the trust thereby reposed, and in case of failure in the examining justices to perform the duties by this act enjoined, or in any such court to appoint such committee as aforesaid, and take such bond and security as is hereby required, the justices in either case so refusing or neglecting shall forfeit and pay for every such refusal or neglect fifty pounds, to be prosecuted for and recovered by the attorney general in the name of the said court of directors for the use of the Commonwealth.

Committees to give bond and security.

Penalties on justices and courts failing to appoint them.

SECT. 4. *And be it further enacted*, That in future not more than two persons shall be paid as a guard for removing any insane person to the said hospital, who shall

Guard appointed to attend insane person to the hospital.

have the same allowance made them for their services as is at present allowed by law to guards employed in removing of criminals, and who shall be paid by the said court of directors out of the monies appropriated for the use of the said hospital.

SECT. 5. All and every act or acts of Assembly coming within the purview of this act, shall be and the same are hereby repealed.

CHAP. XX.

An act to amend an act, intitled "An act concerning a new edition of the laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the laws and resolutions of each session.

(Passed the 23d of December, 1790.)

Preamble.

SECT. 1. WHEREAS an act passed at the last session of the General Assembly, intitled "An act concerning a new edition of the laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the laws and resolutions of each session," so far as it relates to the new edition of the laws, has not been carried into effect, and it is thought expedient, that the same should be revised and amended: *Be it therefore enacted by the General Assembly*, That six gentlemen be appointed, whose duty it shall be, First, To prepare bills upon the subject of such British statutes, if any there be, which are suited to this Commonwealth, and have not been enacted in the form of Virginia laws: Secondly, To report what laws or part of laws, which are of a general concern, shall remain in force at the close of the next session of the General Assembly: Thirdly, To prepare bills upon the subject of such laws, as from their multiplicity ought to be reduced into single acts: Fourthly, To report what laws or parts of laws are either unfit to be continued in force, or unnecessary to be published in any code of the laws: Fifthly, To note in due order of time and report the titles of all laws which may be proper to be omitted in a general compilation of the

Revisors appointed; Their duty;

laws: Sixthly, To instruct the clerk of the house of delegates, as far as it may be in their power, how to obtain for the use of his office, copies of those laws, the rolls whereof are lost.

Compensation for their services;

SECT. 2. *And be it further enacted*, That the sum of one thousand pounds shall be paid to and divided between the said gentlemen, or so many of them as shall carry the said work into effect in equal proportions.

Their report, when to be made.

SECT. 3. *And be it further enacted*, That the said revisors shall make report of their proceedings to the next session of the General Assembly, and that an act passed at the last session, intitled "An act repealing part of an ordinance by which certain English statutes were declared to be in force within this Commonwealth, shall be and the same is hereby continued, until the General Assembly shall have acted thereon.

Names of revisors;

SECT. 4. *And be it further enacted*, That the following gentlemen, viz. Edmund Pendleton, Henry Tazewell, St. George Tucker, Joseph Prentis, Arthur Lee, and William Nelson, jun. shall, and they are hereby appointed to carry into execution the duties above ascertained, and the executive are hereby authorised in case of the death, disability, or non-acceptance of all or either of the above named gentlemen, to supply such vacancy or vacancies if necessary to the completion of the work.

Vacancies, how to be supplied.

CHAP. XXI.

An act giving the compensation of half-pay to certain officers of the State Line.

(Passed the 16th of December, 1790.)

Preamble.

WHEREAS doubts have arisen whether certain officers herein after described have a right to the compensation of half pay; for the removal of such doubts, *Be it enacted by the General Assembly*, That the same compensation of half-pay, should be extended to those officers of the state line, who continued in actual service to the end of the war, as was allowed to the officers of the continental line; and also to those who became supernumerary, and being afterwards required, did again enter into actual service, and continue therein to the end of

Certain state officers intitled to half-pay.

the war; any act or acts to the contrary in any wise notwithstanding.

CHAP. XXII.

An act to declare the time when certain laws shall commence in force.

(Passed the 29th of December, 1790.)

When certain laws shall commence in force.

BE it enacted by the General Assembly, That all and singular the acts and laws herein after recited, which have been enacted during this present session of the General Assembly shall and the same are hereby declared to commence and be in force from and after the passing of this act, that is to say an act intitled "An act to vest certain lands whereof Henry Garnett is seized in trustees to be sold, and the money laid out in the purchase of other lands;" An act intitled "An act for establishing several new ferries and discontinuing one formerly established;" An act intitled "An act to establish a ferry and erect a toll bridge across Meherrin river, from the land of William Gee;" An act intitled "An act for granting relief to certain persons migrating into this state;" An act intitled "An act concerning sheriffs and collectors of the public revenue;" An act intitled "An act remitting certain militia fines and for other purposes;" An act intitled "An act to vest in trustees a tract of land lying in Louisa county, to be sold for the benefit of the children of Roger Thompson;" An act intitled "An act to add twenty acres of land to the town of Charlottesville in the county of Albemarle;" An act intitled "An act directing duplicates of certificates and warrants to be issued to certain persons;" An act intitled "An act giving the compensation of half-pay to certain officers of the state line;" An act intitled "An act for paying a sum of money to Reuben Compton;" and an act intitled "An act making provision for Thomas Price a wounded soldier."

CHAP. XXIII.

An act providing funds for the support of government and for the payment of the public debts.

(Passed the 29th of December, 1790.)

Arrearages constituting the aggregate fund;

SECT. 1. FOR providing adequate funds for the support of government and payment of the public debts, *Be it enacted by the General Assembly*, That all the arrearages of revenues due to this Commonwealth before the first day of November one thousand seven hundred and ninety, except those arrearages arising under the act "For redeeming certain certificates," and from the tax on the seal of the Commonwealth, and the revenue collected by the register of the land-office, and by the several clerks and inspectors shall be added to those heretofore constituting the aggregate fund.

Certain sums to be drawn therefrom by the executive.

SECT. 2. The sum of thirty-two thousand pounds shall be drawn from the said aggregate fund at such times and in such proportions as the governor with advice of council may direct: twenty thousand pounds whereof shall be applied in aid of the funds herein after mentioned to be set apart for the support of civil government and the contingent charges thereof, and twelve thousand pounds shall be applied under the direction of the executive to the purpose of erecting the public buildings at the Federal seat of government on the Patowmack.

Charges thereon

SECT. 3. The said aggregate fund shall remain pledged for the payment of all debts heretofore charged thereon, or on any of the revenues which constitute the same by any act or resolution of the General Assembly, and shall further be charged with all warrants to be issued by the auditor of public accounts, in the year one thousand seven hundred and ninety-one, for interest on any debt due by this Commonwealth, and with all sums of money directed to be paid by any act of the present General Assembly, for which no other provision is made, and for any sums which the executive may certify to be due to any person or persons, whose claims are referred to them by the assembly for settlement during the present session, and for which the governor, with the advice of council, may direct the auditor of public accounts to issue warrants on the said fund.

Funds for payment of the judges salaries;

SECT. 4. *And be it further enacted*, That the taxes on law process, recording of wills and deeds, the tax on the seal of the Commonwealth, and from the register's office, which shall be specie only, shall be appropriated to the payment of the salaries and allowances to the judges of the superior courts; and if the same shall prove insufficient, such salaries or allowances shall be made good out of the fund set apart for support of civil government, and the contingent charges thereof.

For the support of civil government.

SECT. 5. The funds for the support of civil government, and for the contingent charges thereof, shall be the sum of twenty thousand pounds as before mentioned, to be drawn from the aggregate fund, and all other branches of revenue not otherwise appropriated, which shall arise to the Commonwealth, between the thirty-first day of October seventeen hundred and ninety, and the first day of November seventeen hundred and ninety-one; The said branches of revenue shall be charged with all warrants to be issued after the thirty-first day of December one thousand seven hundred and ninety, within the following description, to wit, for expences attending criminal prosecutions, except for guards in the several counties and corporations; for compensation for slaves executed; for the state's share in the Patowmack and James River companies; for the hospital for reception of persons of unsound mind; for the money due to the fund for establishing a marine hospital for the reception of aged and disabled seamen; for erecting public buildings at the fœderal seat of government on Patowmack; for the expences attending the arsenal at the Point of Fork; and for all pensions allowed by this Commonwealth.

Charges on the revenue 1790.

Facilities receivable for arrearages constituting the aggregate fund;

SECT. 6. All persons indebted to the Commonwealth for any arrearages of taxes which by this act shall constitute the aggregate fund, may make payment thereof in specie, or in any commutable or facility heretofore by law receivable in discharge of the respective taxes, also in any warrants issued or hereafter to be issued by the auditor of public accounts for interest on the military debt, or any other funded debt due by this Commonwealth, except warrants issued in the district of Kentuckey, in warrants for the payment of the wages and salaries of the members and officers of the General Assembly and all officers of civil government, and for the contingent purposes of government; Warrants for ex-

pences attending criminal prosecutions, except for guards in the several counties and corporations; to persons intitled to compensation for slaves executed; Warrants on account of the state's shares in the Patowmack and James River companies; for the hospital for reception of persons of unsound mind; for the money due to the fund for establishing a marine hospital, for the reception of aged and disabled seamen; and for all pensions allowed by this Commonwealth And all sheriffs or collectors of the revenues which constitute the said fund, shall on payment thereof into the public treasury have credit for the same accordingly.

Arrearages of the certificate tax, how appropriated.

SECT. 7. The arrears due to this Commonwealth under the act "For redeeming certain certificates," shall be appropriated to the redemption of all certificates or warrants issued by the auditor of public accounts for all liquidated claims due by this Commonwealth, and for which no other provision hath been made, and all persons indebted for any arrears under the said act may make payment thereof in any such certificates or warrants, and every sheriff or collector of the said certificate tax on payment thereof into the public treasury, shall have credit for the same accordingly.

Treasurer to supply the deficiency in certain funds, by borrowing from others.

SECT. 8. *And be it further enacted*, That if the funds assigned for payment of the judges and other officers of civil government, and for warrants issued by direction of the executive for the contingent purposes of government on account of the state's shares in the Patowmack and James River companies, for the hospital for the reception of persons of unsound mind; for the money due to the fund for establishing a marine hospital for the reception of aged and disabled seamen; for erecting the public buildings at the fœderal seat of government on the Patowmack; for all pensions due by this Commonwealth, and all legal expences which may accrue by order of the executive in defence of the western frontier, should not be productive early enough for these purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money as shall be deficient, out of any other funds, and to replace the same as soon as possible. So much of every act of assembly as comes within the purview of this act shall be and the same is hereby repealed.

When this act commences.

SECT. 9. This act shall commence and be in force, from and after the passage thereof.

CHAP. XXIV.

An act for the better securing certain debts within mentioned, due and owing to the Commonwealth.

(Passed the 25th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented to this present General Assembly, that by means of certain suspensions of certain executions, sued out upon the Commonwealth's judgments against Sir John Peyton, sheriff of Gloucester, for the revenue and certificate taxes, due and payable in the years one thousand seven hundred and eighty-two, and one thousand seven hundred and eighty-three, and against Mr. John Dixon the succeeding sheriff of the said county, for the revenue and certificate taxes due and payable in the year one thousand seven hundred and eighty-four, and by the death of the said John Dixon, who had in his hands the said executions against the said Sir John Peyton, at the time of such suspension, and also by the death of John Whiting the sheriff, who succeeded the said John Dixon, and who in his life time, had in his hands the said executions against the said John Dixon, at the time of such suspension. Questions in law and equity new and difficult may arise respecting any future mode of recovering the balances due on the said judgments: And whereas by the suspensions granted by certain resolves of the late General Assembly against certain executions of the said Sir John Peyton, upon judgments which he had obtained against Mrs. Anne Fox and Mrs. Elizabeth Whiting, the administratrixes of their respective testators, who in their life time were securities for certain deputies of the said Sir John Peyton, which executions at the time of such last mentioned suspensions, were then in the sheriff's hands to be levied according to law: Further questions in law and equity may arise respecting the operation of those suspensions, as to the Commonwealth's demand against the said Sir John Peyton. And whereas the said Sir John Peyton having departed this life, some time in the month of March last, and his administratrix, the said Mrs. Fox and Mrs. Whiting, and Thomas Dixon and Elizabeth Dixon, the surviving executor and executrix of the said John Dixon,

deceased, having applied to this present General Assembly, for a law to pass to quiet all those questions of law and equity, and having proposed to deliver up all the slaves heretofore taken under execution, either by virtue of the Commonwealth's executions against Sir John Peyton or the said John Dixon, or by virtue of executions of the said Sir John Peyton against the said Mrs. Fox or Mrs. Whiting, and which now remain in their hands to be administered, to certain commissioners, to be sold for satisfying the balances due to the Commonwealth, upon the judgments against the said Sir John Peyton and John Dixon, on condition that the said commissioners shall sell the said slaves by way of public auction, and upon a reasonable credit, upon bond and security payable to the Commonwealth, and to be discharged by payment of such facilities as were really due and owing to the Commonwealth for the aforementioned taxes, payable in the years one thousand seven hundred and eighty-two, one thousand seven hundred and eighty-three, and one thousand seven hundred and eighty-four, and it is not only just and equitable, that the said terms should be accepted, but it will be greatly to the advantage of the Commonwealth so to do: *Be it enacted by the General Assembly*, That Philip Tabb, James Booker, Armistead Smith, James Baytop, Samuel Cary, Machen Boswell, and Richard Billups, for the county of Gloucester, and William Alexander, William Stuart, Bernard Hooe, Thomas Lee, sen. and John M'Millian, for the county of Prince-William, gentlemen, be and they are hereby constituted and appointed commissioners for the purpose of carrying this act into execution, as herein after shall be directed: And it shall be lawful for the said Mary Peyton, administratrix of Sir John Peyton, deceased, Thomas Dixon, and Elizabeth Dixon, the surviving executor and executrix of John Dixon, deceased, or either of them. Anne Fox administatrix of John Fox, or Elizabeth Whiting, administratrix of Peter Beverley Whiting deceased, to deliver up and put into the hands of the aforenamed commissioners, or any two of them, all and every slave and slaves which now remain in their respective possessions, and which have heretofore been taken into execution, either by executions at the suit of the Commonwealth upon their judgments aforementioned, or by executions at the suit of Sir John Peyton, or the said John Dixon, upon their or either of their judgments as afore-

Commissioners appointed to receive slaves, for certain debts due from sheriffs of Gloucester.

mentioned; any law, judgment at law or process thereon and return thereof, to the contrary thereof notwithstanding.

Executions for said debts to become null and void.

SECT. 2. *And be it further enacted*, That upon such delivery to the said commissioners, or any two of them, all returns upon former process upon the judgments aforementioned and every of them, and all and every bond or bonds entered into for the redelivery of the said slaves, to the sheriff or other officer who served the said executions or any of them, shall become null and void as to the said slaves so delivered up, and the said commissioners, or any two of them, shall grant the party so delivering up such slaves, duplicate certificates thereof, one of which being lodged in the clerk's office where the original judgments were obtained, shall be there recorded and be considered in law to operate in the same manner as a return of a sheriff upon a fieri facias sued out upon the said judgment, and all further process either upon the said original judgment, or on process heretofore sued out thereupon, shall be suspended until the tenth day of April, one thousand seven hundred and ninety-two.

Certificates to be given by the commissioners on the receipt of the slaves;

In what manner they are to be disposed of;

SECT. 3. And the said commissioners, or any three or more of them, shall as soon as conveniently may be after such delivery, and at such times and places as to them shall be judged most beneficial to the Commonwealth, proceed to sell the said slaves or so many thereof as may be necessary to discharge the respective debts due to the Commonwealth from the said Sir John Peyton, or the said John Dixon deceased, by way of public auction, and upon credit until the said tenth day of April, one thousand seven hundred and ninety-two, taking bond with sufficient security from the purchasers thereof, payable to the governor or chief magistrate of this Commonwealth for the time being and his successors, with a proper condition to the said bond annexed, for securing the payment of the principal sum and interest due thereon according to the directions of this act, and the said bonds shall contain a memorandum thereto annexed, expressing the purpose for which it was entered into, and also to what debt it is to be applied, and by the commissioners taking the same returned to the auditor's office, and by him placed to the credit of the proper account therein mentioned, and then be delivered up to the solicitor general, and charged to him in general account in the same manner as duty bonds are by law directed to be charged.

Purchase money how to be recovered.

Sect. 4. And if any of the said bonds shall not be discharged when due, the said solicitor general shall proceed to the recovery thereof in the general court, in the same manner as duty bonds are by law recoverable, and the judges of the general court shall give judgment thereon and award execution on such bonds as in cases of duty bonds, and the clerk of the court shall indorse on all original executions sued out upon such judgments, that no security shall be taken, and the sheriff or other officer levying such executions, shall proceed thereon by sale of the estate of the debtor as upon executions of venditioni exponas.

Certificates to be given to the persons delivering up slaves to be sold.

Sect. 5. And the said commissioners who shall sell the said slaves, shall at the time of such sale, grant to the proprietor of the said slaves duplicate certificates of the amount thereof, and one of the said certificates being filed with the clerk of the court wherein the original judgment has been obtained, shall be set off against such judgment, according to the amount of the said certificate, in the same manner as money levied by fieri facias, as the said judgment shall stand only for the balance due thereon.

Solicitor to furnish the commissioners with a statement of the debts.

Sect. 6. And for the better government of the said commissioners, *Be it further enacted*, That the said solicitor general shall transmit to the said commissioners an account of the balances due to the Commonwealth on the aforementioned judgments against the said Sir John Peyton and the said John Dixon deceased, deducting therefrom all interest, and damages included in the said original judgments up to the first day of October last past, to which day the late General Assembly suspended the executions of the said Sir John Peyton against the aforenamed Mrs. Fox and Mrs. Whiting, and from which day the balances due from the said Sir John Peyton and John Dixon deceased, shall bear interest until fully paid.

How the said slaves are to be sold.

Sect. 7. And the said commissioners shall proceed in selling the said slaves in manner following, to wit: the slaves to be delivered up to them by Mrs. Fox or Mrs. Whiting, shall be first sold and applied in discharge of the Commonwealth's judgment against Sir John Peyton, and the slaves of the said Sir John Peyton shall only be sold for the balance. And in case the said Mrs. Fox or Mrs. Whiting shall neglect or refuse to deliver up to the said commissioners the slaves heretofore taken in execution to satisfy the said Sir John Peyton's judgment

against them, the sale of which being prevented by the suspensions allowed the said Mrs. Fox and Mrs. Whiting, by the late General Assembly, as aforementioned, and all process for enforcing a sale thereof being abated by the death of the said Sir John Peyton, in the month of March last. *Be it enacted*, That the said commissioners shall estimate the reasonable value of the said slaves, and after deducting the same, shall only sell the slaves of the said Sir John Peyton for the balance due to the Commonwealth. And as to such value, *Be it enacted*, That all process upon the judgments of the Commonwealth against the said Sir John Peyton, shall be suspended until his administratrix or other legal representative, shall be enabled to revive the original judgments of the said Sir John Peyton, against the said Mrs. Fox and Mrs. Whiting: *Provided nevertheless*, That the said administratrix of the said Sir John Peyton shall confess a new judgment to the Commonwealth for the amount of such estimate, upon condition of a stay of execution thereon, until by using legal diligence the said administratrix shall be enabled to obtain a new execution against the said Mrs. Fox and Mrs. Whiting, and upon this further condition, that if upon pursuing such legal diligence the said administratrix of Sir John Peyton, or his other legal representative, shall ultimately lose any part of the value of the said Mrs. Fox's or Mrs. Whiting's debt so estimated by the said commissioners, the said administratrix shall be finally exonerated from the payment of so much of the said debt so due to the Commonwealth.

Judgments against Sir John Peyton to be suspended.

Sect. 8. And whereas it is represented to the present General Assembly that it is questionable whether the said Sir John Peyton and the other securities of the said John Dixon deceased, in the bond entered into by Mr. Dixon as sheriff of the county of Gloucester, were discharged from their securityships by the suspension granted the said John Dixon, by the executive against the Commonwealth's execution against him which was then levied on a sufficiency to pay the whole debt due to the Commonwealth, and which upon the said suspension was redelivered to the said John Dixon by John Whiting, then sheriff of Gloucester through mistake, and thereby so wasted, in the lifetime of the said John Dixon, as not to leave a sufficiency to satisfy the said Commonwealth's judgment against him; and the said John Whiting being now dead, it may not only be difficult, but tedious, and

also unreasonable to proceed against his estate, while there is a sufficiency of John Dixon's own estate for the payment of his debt; and it appearing to this General Assembly, that the only son and heir of the said John Dixon, has a very considerable real estate devised to him by the will of his father, which is liable at law for payment of the debts due to the Commonwealth, in virtue of his father's bond before mentioned, though not to the securities of the said John Dixon, nor to the said John Whiting, who trusted to his verbal promise, only for their indemnification: *Be it enacted*, That after the slaves which are in the hands of the executor and executrix of the said John Dixon shall be sold by the said commissioners as aforementioned, the solicitor general shall proceed for the balance of the debt of the said John Dixon, against the said heir, and that all process against the said securities of the said John Dixon, and the representatives of the said John Whiting, shall be stayed against them for the said balance, and that the said securities or the representatives of the said John Whiting, deceased, shall not be proceeded against until an actual failure of the recovery thereof against the said heir of the said John Dixon, deceased.

Solicitor to proceed against the heir of John Dixon.

SECT. 9. And whereas it is represented to this present General Assembly, that there are some of the deputies, both of the said Sir John Peyton and the said John Dixon deceased, and also some securities for the said deputies who may be willing to put into the hands of the said commissioners such estates as they now have, in order to avail themselves of the indulgence by this act allowed to the securities herein particularly named: *Be it enacted*, That it shall be lawful for any of the deputies or their securities, either of the said Sir John Peyton or the said John Dixon deceased, to deliver up to the said commissioners any estate or property they may be willing to deliver up, and that in all such cases the said commissioners shall proceed in like manner as to such estates and property, as is herein before directed as to the slaves of Sir John Peyton, Mr. John Dixon, Mrs. Fox, or Mrs. Whiting; and that such deputies and securities shall have the same benefit of this act, as if they had been specially named.

Commissioners authorized to receive and sell property of the deputies of the said sheriffs.

SECT. 10. And the better to ascertain the facilities with which the bonds so to be taken by the commissioners shall be discharged, *Be it enacted*, That all public se-

In what manner, bonds for the purchase

money may be discharged.

curities either of the United States or of this state or interest warrants due thereon, shall be receivable in discharge of any of the said bonds at such rates as the executive shall from time to time direct.

Allowance to commissioners for their trouble.

SECT. 11. *And be it further enacted*, That the commissioners who shall undertake to carry this act into execution, shall receive for their trouble therein the same commissions as are allowed to sheriffs or other officers for levying of executions over and above all expences which may be found necessary for transporting any of the said slaves to the proper places for selling the same.

Penalty on them for neglect of duty.

And any commissioner undertaking the execution of this act shall within six months after the passing of this act, proceed to sell the slaves to them delivered up under the penalty of five hundred pounds each; and the said commissioners shall within two months after each sale return to the auditor's office, the bonds by them taken for such sales under the penalty of five hundred pounds each; which several penalties shall and may be recovered in the general court on the motion of the solicitor general, upon ten days previous notice to the said commissioners, in the same manner as directed by law against inspectors of tobacco, and be applied to the use of the Commonwealth.

SECT. 12. *And whereas* a judgment hath heretofore, to wit, on the fourteenth day of June, one thousand seven hundred and eighty-six, been obtained in the general court by the Commonwealth against James Barbour, late sheriff of the county of Culpeper, for certain balances then due from him for the public taxes of the year one thousand seven hundred and eighty-four, and an execution thereupon was issued against the goods and chattels, lands and tenements of the said James Barbour, to levy the debt in the said judgment mentioned, which execution being delivered to the proper officer who levied the same on certain lands and tenements and personal estate, and made return that the goods and chattels, lands and tenements remained in his hands for want of bidders, and a writ of venditioni exponas issuing on the said return, the said goods and chattels, lands and tenements were sold according to the command of the said last mentioned writ of venditioni exponas, for a sum not sufficient to discharge the said execution, and all further process upon the judgment aforesaid, being stopped by the return on the venditioni exponas before mentioned,

the solicitor general on behalf of the Commonwealth, hath instituted an action at law against John M. Bell, the only surviving security of the said James Barbour, on the bond given by him as sheriff of the county of Culpeper aforesaid, which suit is yet depending; And whereas the judgment so obtained against the said James Barbour, was owing to the default of Joseph Strother, of the county of Culpepper, one of the deputies for the said James Barbour; and French Strother security for the said Joseph, fearing that he might be made liable to the said James Barbour for the default of the said Joseph Strother, prevailed on the said Joseph Strother to mortgage certain lands and personal estate for his indemnity as his security aforesaid, and the said French Strother and the said Joseph Strother have requested this General Assembly that an act may pass for selling the said premises for the indemnity of the said James Barbour as far as the same may extend, on proviso that the same may be sold by certain commissioners for paper facilities, and upon such credit as may be likely to enhance the value thereof, and it is reasonable that the indulgencies by this act granted to the aforementioned Mary Peyton, and others deputies and their securities should in like manner be extended to the said Joseph Strother and his said security French Strother: *Be it further enacted*, That David Jameson, John Thornton, John Thompson, Birkett Davenport, John Strode, Henry Hill, and James Pendleton, gentlemen, of the county of Culpeper, or any three or more of them, be commissioners for carrying this act into execution, so far as it respects the said judgment obtained against the said James Barbour, in the same manner and under the same penalties as are herein before directed as to the estate of the deputies of the said John Peyton deceased, and their securities; and the said commissioners shall be entitled to the same commissions upon the sales thereof.

Commissioners appointed to receive property for a debt due from sheriff of Culpeper;

Sect. 13. *And be it enacted*, That if the said French Strother and the said Joseph Strother within two months after the commencement of this act, shall deliver up to the said commissioners or any two of them, the lands and personal estate so put in mortgage as aforementioned, with good and sufficient powers in law to enable the said commissioners to sell and convey the same to the purchasers under a sale thereof in fee, that in such case all further proceedings in the action of law now depending

Suit against his security to be suspended.

against the said John M. Bell, shall be suspended until the tenth day of April, one thousand seven hundred and ninety-two, and the nett amount of such sales shall be applied in relief of the said John M. Bell, as security for the said James Barbour. And the purchasers of the said mortgaged estates shall give bond therefor payable to the governor of this Commonwealth and his successors, and be liable to judgment thereupon in the same manner as is before directed, as to the bonds to be entered into for the sales of the estates of the said Sir John Peyton and John Dixon their deputies and securities as aforementioned.

Commissioners may remove the slaves to Richmond for the purpose of selling them:

SECT. 14. *And be it further enacted*, That if the slaves directed to be sold by this act, will not in the opinion of the commissioners sell for three-fourths of their value at the places where they may be exposed to sale, the said slaves shall be brought to the city of Richmond by the said commissioners, and there sold by them under the direction of the executive. *And be it further enacted*, that this act shall commence and be in force from and after the first day of January next.

Original judgments to continue in force for the balances which may remain unpaid.

SECT. 15. *Provided nevertheless*, That nothing in this act contained shall affect the original judgments farther, than they shall be credited for the amount of such estate delivered up, shall sell for, after deducting the commissioners' allowance and the necessary expences attending the proceedings under this act; but any balance remaining unsatisfied of the said judgments, may be recovered and proceeded for in the like manner as if this act had never passed, any thing herein to the contrary notwithstanding.

CHAP. XXV.

An act to amend the act intitled "An act for cutting a navigable canal from the waters of Elizabeth river in this state, to the waters of Posquotank river, in the state of North-Carolina."

(Passed the 25th of November, 1790.)

Books to be opened for receiving subscriptions:

SECT. 1. *BE it enacted by the General Assembly of Virginia*, That the books directed to be opened for receiving and entering subscriptions in the towns of Norfolk, Portsmouth, Suffolk, Petersburg, Richmond, Fredericksburg and Alexandria, by the act intitled "An act for cutting a navigable canal from the waters of Elizabeth river in this state, to the waters of Pasquotank river, in the state of North-Carolina," shall be opened for receiving subscriptions at the said places, and under the management of the persons mentioned in the said recited act, and in the city of Williamsburg, under the management of Robert Andrews, in the month of May next after the time when this act shall be in force, and continue open until the first day of September following; and on the third Thursday of the said month of September, there shall be a general meeting of the subscribers at the town of Halifax, in the state of North-Carolina, of which meeting notice shall be given by the said managers or any three of them in the Gazettes of both the aforesaid states, at least one month next before the said meeting; and such meeting shall and may be continued and the business of it conducted in the manner prescribed for the meeting appointed by the said recited act.

Meeting of subscribers; when and where.

Conditions, on which the tolls are granted.

SECT. 2. And it is hereby declared and enacted, that the tolls allowed to be demanded and received by the before recited act, are granted and shall be paid on condition only that the said Dismal Swamp company shall make the canal and locks of sufficient width for vessels that are fifteen feet broad, and of sufficient depth to be navigated in dry seasons, by vessels drawing three feet water from Deep creek near Tucker's mill in Virginia, to the highest good navigation for vessels of the aforesaid draft in Pasquotank river in North-Carolina, and

that each of the locks shall be ninety feet in length, and the causeways fifteen feet in breadth.

Part of the former act repealed.

SECT. 3. *And be it further enacted*, That every act or part of an act of Assembly which comes within the purview and meaning of this act, and every part of the before recited act concerning the regulation of commerce, so far as the same is now vested in the government of the United States, shall be and the same are hereby repealed.

Not to be repealed or altered without the consent of North Carolina.

SECT. 4. And so soon as an act similar to the before recited act, as amended by this act, shall have been passed by the state of North Carolina, the before recited act as amended by this act, shall be in force, and shall never be repealed or altered by the legislature of this state, without the consent of the state of North Carolina.

CHAP. XXVI.

An act to amend the act, intitled "An act for clearing and improving the Navigation of James river.

(Passed the 25th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented to the General Assembly, that the navigation of James river is much obstructed by hedges and fish-traps:

Penalty on persons placing obstructions in the river.

SECT. 2. *Be it therefore enacted by the General Assembly*, That if any person shall hereafter make or cause to be made any hedges, fish-traps or other obstructions in the said river, or any of the navigable branches thereof, from the upper end of the James river canal, to the highest navigation of the said river or the branches thereof, so as to impede or injure the passage of batteaux or canoes, shall forfeit and pay the sum of one hundred pounds for each offence, to be recovered by bill, plaint or information in any court of record, one half for the use of the informer, the other half for the use of the Commonwealth.

CHAP. XXVII.

An act directing a Seal for the High Court of Chancery.

(Passed the 27th of December, 1790.)

Seal to be procured for the court of chancery.

BE it enacted by the General Assembly, That George Wythe, judge of the high court of chancery, shall be and he is hereby authorized to have a seal executed for the said court, according to a design laid by him before this Assembly; and the auditor of public accounts is hereby directed to issue his warrants on the treasurer for any sum of money not exceeding twenty-five pounds, to be paid out of the contingent fund, to the said George Wythe, for the aforesaid purpose.

CHAP. XXVIII.

An act concerning the trustees of the Transylvania Seminary.

(Passed the 3d of December, 1790.)

Preamble

WHEREAS it hath been represented to this present General Assembly, by the trustees of the Transylvania Seminary, that great inconveniences frequently arise from the number of members required by law to constitute a board to transact business, as they are so widely dispersed in the district of Kentuckey: For remedy whereof, *Be it enacted by the General Assembly*, That from and after the passing of this act, seven members shall be sufficient to constitute a board to transact business at the two annual stated meetings, as fixed by law.

How many trustees constitute a board.

CHAP. XXIX.

An act to explain and amend the several acts of Assembly concerning the town of Louisville, in the county of Jefferson, and for other purposes.

(Passed the 18th of December, 1790.)

Preamble.

WHEREAS it is represented to this present General Assembly, that inconveniencies have arisen on account of the powers given to the trustees and the commissioners of the town of Louisville, in the county of Jefferson, not being sufficiently defined: For remedy whereof, *Be it enacted by the General Assembly*, That the powers heretofore vested in the commissioners by an act intitled "An act directing the sale of lands in the towns of Louisville and Harrodsburg, and for other purposes," shall be vested in, and in future exercised only by James Francis Moore, Abraham Hite, Abner Martin, Donne Basil Prather, and David Standeford, gentlemen, or a majority of them; and in case of the death, refusal to act, resignation, removal out of the county, or any other legal disability of any of the said commissioners, the remaining commissioners shall and they are hereby directed to appoint others in their stead, who shall to all intents and purposes be vested with, and exercise the same powers and authorities as those mentioned in this act; any act or acts to the contrary notwithstanding.

Trustees appointed.

Vacancies how to be supplied.

CHAP. XXX.

An act to revive and amend the act, intitled "An act appointing Commissioners to examine Slate river."

(Passed the 16th of December, 1790.)

Former act revived:

BE it enacted by the General Assembly, That the act intitled "An act appointing commissioners to examine Slate river," shall be and the same is hereby revived, and

that William Perkins, jun. Cary Harrison, Benjamin Harrison, David Coupland, Anthony Murry, and John Couch, gentlemen, be added to those commissioners appointed in the said act, who or any three of them shall perform what is required by the said recited act, and make report thereof to the next General Assembly. Additional trustees appointed.

CHAP. XXXI.

An act to amend an act, intitled "An act for surveying and apportioning the lands granted to the Illinois regiment, and establishing a town within the said grant."

(Passed the 10th of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That so much of the act intitled "An act for surveying and apportioning the lands granted to the Illinois regiment, and establishing a town within the said grant," as requires that one thousand acres of land for a town shall be laid off into half acre lots, and each to be improved by building, subject to the condition of building on each a dwelling house, twenty feet by eighteen at least, with a brick chimney, to be finished within three years from the day of sale, is hereby repealed. Part of the former act repealed.

SECT. 2. The trustees of the said town are directed to convey to those who have already purchased a lot or lots in said town, titles in fee-simple, although the said lots may not have been improved agreeably to the requisitions of the said recited act. Trustees to make conveyances to the purchasers of lots;

SECT. 3. *And be it further enacted*, That the said trustees, or any five of them, are authorised and required to sell at public auction the residue of the said one thousand acres of land, for the best price that can be had for the same at twelve months credit, in lots not exceeding twenty acres, nor less than half an acre, taking from the purchasers bond with approved security for the payment thereof, and when received, to be applied to the benefit of the said town; notice of the time and place of such sale being previously advertised two months successively in the Kentuckey Gazette. And to sell the residue of the land.

Lots not subject to forfeiture for want of improvements.

SECT. 4. *And be it further enacted*, That the said trustees shall convey to the said purchasers titles in fee; and that the said lots shall not be liable to forfeiture on account of any failure in improving the same, but that the titles thereof shall be absolute and unconditional: any thing in the said recited act to the contrary notwithstanding.

CHAP. XXXII.

An act authorising the Court of Bourbon county, to admit the recording of Deeds in certain cases.

(Passed the 29th of November, 1790.)

Preamble.

WHEREAS from the death of the high sheriff of the county of Bourbon, which happened in the year one thousand seven hundred and eighty-nine, no court was holden for the said county from the month of July in the said year, until the month of January following, whereby many deeds for lands and other estate could not be recorded within the time limited by law; and the purchasers thereof have in many instances been deprived of an opportunity of renewing the same by the removal and death of the venders. For remedy whereof, *Be it enacted by the General Assembly*, That all deeds and other conveyances of lands, slaves or other estate legally made and executed, and the time limited by law for recording of which expired within the said period of the month of July, one thousand seven hundred and eighty-nine, and the month of January following, which shall be acknowledged by the parties, or proved by the number of witnesses directed by law in the court of the said county of Bourbon, within nine months from the passing of this act, shall be recorded, and be as effectual for passing the estate thereby conveyed, as if such deeds had been recorded within the times respectively prescribed by law from the date thereof: any law to the contrary notwithstanding.

Court of Bourbon to admit certain deeds to record.

CHAP. XXXIII.

An act for establishing several new Ferries, and discontinuing one formerly established.

(Passed the 11th of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth, that is to say, from the land of Edward Mitchell in the county of Mecklenburg, across Roanoke river to the land of Christopher Haskins on the opposite shore, and from the land of the said Haskins to the land of the said Mitchell, the price for a man three pence, and for a horse the same; from the land of Joseph Berry in the county of Frederick across Shenandoah river to the opposite shore, the price for a man two pence, and for a horse the same; from the land of John Canefax in the county of Campbell across Staunton river to the lands of John Ward on the opposite shore, in the county of Pittsylvania, the price for a man three pence, and for a horse the same; from the land of Hezekiah Davis in the county of Harrison, above the mouth of Limestone across the west fork of Monongahela river, to the lands of William Barkley on the opposite shore, the price for a man three pence, and for a horse the same; from the land of David Scott at the mouth of his mill run in the county of Monongalia, across Monongalia river, to his land on the opposite shore, the price for a man three pence, and for a horse the same; from the land of John Chenoweth in the county of Hampshire, across great Cacapon creek to the opposite shore, the price for a man four pence, and for a horse the same; from the lands of Conrod Glaze in the county of Hampshire, across the south branch of Patowmack, to the land of George Glaze on the opposite shore, and from the land of the said George Glaze across the south branch to the land of Conrod Glaze, the price for a man four pence, and for a horse the same; from the land of Charles Prather in the county of Ohio, across the mouth of Buffaloe creek, to the land on the opposite shore, the price for a man two pence, and for a horse the same; from the lands of the said Charles Prather in the

Ferries established

across Roanoke,

Shenandoah,

Staunton,

the west fork of Monongahela;

Monongalia,

Great Cacapon creek;

the south branch of Patowmack;

Buffaloe creek;

Ohio; county of Ohio, across Ohio river to the opposite shore, the price for a man six pence, and for a horse the same; from the land of John Grimes deceased in the county of Norfolk, across the western branch of Elizabeth river, to the land of Michael Warren on the opposite shore, the price for a man four pence, and for a horse the same; from the land of Rees Pritchard in the county of Hampshire, across the north fork of great Cacapon, to his land on the opposite shore, the price for a man four pence, and for a horse the same; and from the land of Edward Jackson in the county of Randolph, across Buchanan river to the land of John Jackson junior on the opposite shore, the price for a man three pence, and for a horse the same.

the western branch of Elizabeth river;

the North Fork of Great Cacapon;

Buchanan.

Rates. SECT. 2. And for the transportation of wheel carriages, tobacco, cattle and other beasts at the places aforesaid, the ferry keepers may demand and take the following rates, to wit, for every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise and the driver, the same as for four horses; for every two wheel chaise or chair as for two horses; for every hogshead of tobacco as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one fifth part of the ferriage for one horse; and for every hog one fifth part of the ferriage for one horse, and no more.

Penalty on ferry keeper demanding more than the legal rates. SECT. 3. If any ferry keeper shall demand or receive any greater rates than is hereby allowed for the ferriage or carriage of any thing, he shall for every such offence forfeit and pay to the party aggrieved, the ferriages demanded or received and ten shillings; to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

Ferry across Patowmack discontinued. SECT. 4. *And be it further enacted*, That the ferry heretofore established from the land of John Posey, now the property of George Washington in the county of Fairfax, across Patowmack river, to the opposite shore in the state of Maryland, shall be and the same is hereby discontinued.

CHAP. XXXIV.

An act to amend the act intitled "An act for opening and extending the navigation of Appamatox river."

(Passed the 16th of December, 1790.)

Preamble.

SECT. 1. WHEREAS the dispersed situation of the trustees appointed to carry into effect the act intitled "An act for opening and extending the navigation of Appamatox river," hath greatly retarded and impeded the salutary purposes thereof: *Be it enacted by the General Assembly*, That John Morton, John Archer and Edward Munford, gentlemen, or any two of them, be and they are hereby appointed trustees for the purpose of carrying into full effect the act aforesaid in every matter and thing to all intents and purposes as the trustees in the said act appointed could or might have done by virtue thereof.

Trustees appointed;

Compensation for their services.

SECT. 2 *And be it enacted*, That the said John Morton, John Archer and Edward Munford, gentlemen, shall receive as a compensation for their expences and services after the rate of six shillings per diem for the time they shall be employed in carrying into execution the act aforesaid, and once in every six months shall on oath lay before one or other of the courts of Amelia, Prince-Edward or Cumberland, a full and fair statement of their receipts, disbursements and expenditures in and about the business of their appointment. So much of the before recited act as comes within the purview of this act shall be and is hereby repealed.

Before whom they are to lay statements of their accounts.

CHAP. XXXV.

An act to establish a ferry and erect a toll-bridge across Meherrin river, from the land of William Gee.

(Passed the 21st of December, 1790.)

Preamble.

SECT. 1. WHEREAS the establishing a ferry and erecting a toll-bridge across the river Meherrin, in the county of Brunswick, will be of public utility:

Ferry established across Meherrin river;

SECT. 2. *Be it therefore enacted by the General Assembly*, That a public ferry shall be constantly kept at the following place, and the rates for passing the same as followeth, to wit: From the land of William Gee in the said county of Brunswick, across Meherrin river, to his land on the opposite shore, the price for a man two pence, and for a horse the same.

Rates.

SECT. 3. And for the transportation of wheel carriages, tobacco, cattle and other beasts at the place aforesaid, the ferry keeper may demand and take the following rates, that is to say, for every coach, chariot, four wheel chaise or waggon, and the driver thereof, the same as for six horses; for every cart, two wheel chaise or chair, the same as for two horses; for every hogshead of tobacco as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one-fifth part of the ferriage for one horse; and for every hog one-fourth part of the ferriage for one horse, and no more.

Toll-bridge across Meherrin river,

Rates.

SECT. 4. *And be it further enacted*, That it shall and may be lawful for the said William Gee, to erect a bridge across Meherrin river, from his land in the said county of Brunswick to the opposite shore, as near to the ferry hereby established as may be, and to demand and receive the same toll and rates for the passage of any person or thing, as is allowed by this act at his said ferry.

Penalty on ferry keeper for demanding more than the legal rates.

SECT. 5. If the ferry keeper or collector of tolls at the said place, shall presume to demand and receive from any person or persons, greater rates than are hereby allowed, for the carriage or ferriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriages or tolls demanded or received and

ten shillings; to be recovered with costs, before a justice of peace of the said county of Brunswick.

CHAP. XXXVI.

An act for establishing several inspections of tobacco, and finishing Trent's warehouses.

(Passed the 24th of December, 1790.)

Inspections established in the towns of Paris and Romney;

At the Great Falls of Patowmack;

At Carter's ferry;

And in the town of Manchester.

SECT. 1. *BE it enacted by the General Assembly*, That inspections of tobacco shall be and are hereby established at the following places, to wit, on the lots of Lawrence Spotsman in the town of Paris in the county of Bourbon, to be called and known by the name of Bourbon warehouse; in the town of Romney in the county of Hampshire, to be called and known by the name of Romney warehouse; at the Great Falls of Patowmack in the county of Loudoun, to be called and known by the name of Great Falls warehouse; on the lands of John Woodson at Carter's ferry in the county of Cumberland, to be called and known by the name of Woodson's warehouse; and on the lots belonging to the estate of Edward Johnson deceased, in the town of Manchester, to be called and known by the name of Johnson's warehouse; the proprietors whereof shall build the same at their own expence.

Warehouses at Manchester, how to be built.

SECT. 2. *Provided always, and be it further enacted*, That if the executors of the said Edward Johnson deceased, shall be unable to build the warehouses hereby directed to be erected on his lots in the town of Manchester, out of their testators effects in their hands, they shall certify the same to the court of Chesterfield county, and thereupon the said court shall, and they are hereby directed and required to agree with some person or persons to build the same, and shall certify the charge thereof to the treasurer for the time being, who is hereby required to pay the same out of the money in his hands arising from the inspection of tobacco. The rents of the said warehouse shall be paid by the inspectors thereof to the treasurer, until the expence of building the same with lawful interest thereon, shall be reimbursed to the public.

Inspectors salaries.

SECT. 3. There shall be allowed and paid annually to each of the inspectors at Bourbon warehouse, the sum of twenty pounds; to each of the inspectors at Romney warehouse, the sum of fifteen pounds; to each of the inspectors at Johnson's warehouse, the sum of sixty pounds; to each of the inspectors at the Great Falls warehouse, the sum of forty pounds; to each of the inspectors at Woodson's warehouse, the sum of forty pounds for their salaries: *Provided always*, that if the quantity of tobacco inspected at the said warehouses shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

Trent's warehouses to be finished.

SECT. 4. *And be it further enacted*, That the court of the county of Chesterfield, shall, and they are hereby directed and required to agree with some person or persons to finish and complete the warehouses on the lots of Alexander and Peterfield Trent, in the town of Manchester, in manner prescribed by the act, intitled "An act for establishing an inspection of tobacco on the lots of Alexander and Peterfield Trent, in the town of Manchester," and shall certify the charge thereof to the treasurer for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent at the said warehouse for reimbursing the public, the charge of such buildings, until the same be repaid with lawful interest.

This act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-one.

CHAP. XXXVII.

An act for reassessing the lands in the counties of Amelia and Nottoway.

(Passed the 11th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it hath been represented to this present General Assembly, That the lands included in the county of Amelia, before the late division thereof, having been valued by two sets of assessors who never

acted in conjunction, and entertained different opinions respecting the value of landed property, by reason whereof many landholders within the said county, complain that their lands are taxed much higher than other lands in the same county of equal quality, and application hath been made to this Assembly, to give a legal sanction to measures for conducting a full and fair enquiry respecting the facts by them stated in such manner, that full information being had thereon such measures may be taken as will do justice to all the landholders within the said county, without any diminution or derangement of the public revenue; And whereas, it is at all times the duty of the legislature to attend to the complaints of the people and to redress their grievances; for the purpose of conducting a proper inquiry respecting the complaints of the aforesaid landholders; *Be it therefore enacted by the General Assembly*, That three discreet and reputable persons shall be appointed by the governor with advice of council, as commissioners, to make a new valuation of all the lands included in the county of Amelia before the late division thereof, and now included in the counties of Amelia and Nottoway, in such manner that all the lands so included shall average the price of ten shillings per acre

Lands in Amelia and Nottoway to be revalued.

SECT. 2. The commissioners so appointed, any two of whom shall be sufficient to act, shall before they enter on the execution of the duties herein required, take an oath before the court of either of the said counties of Amelia and Nottoway, which oath shall be entered of record, faithfully and impartially to value all the lands in the counties of Amelia and Nottoway, to the best of their skill and judgment in such manner that the whole quantity of land contained therein, shall on an average amount to the price of ten shillings per acre. In case of the death, refusal to act, or other disability of all or any of the said commissioners, the governor with advice of council shall appoint others in the room of the persons dead, refusing, or disabled who shall in like manner take an oath as herein before required.

Commissioners to take an oath;

Vacancies how to be supplied.

SECT. 3. The commissioners so appointed may enter on the execution of the duties herein required as soon as they shall have taken the oath aforesaid, and shall continue therein from time to time so as to compleat the whole by the first day of October, in the year one thousand seven hundred and ninety-one.

Revaluation, when to be commenced, and finished.

Commissioners books, how to be disposed of.

SECT. 4. The said commissioners shall make fair and distinct entries of all the lands by them valued in a book to be by them kept for that purpose, of which book they shall make three copies, one of which shall be delivered to the governor to be laid before the General Assembly at their meeting, in the session in the fall of seventeen hundred and ninety-one, and the two other copies to be delivered to the clerks of the counties of Amelia and Nottoway, respectively, for the inspection of the courts of the said counties.

Compensation to the commissioners for their services.

SECT. 5 The commissioners for their services in viewing and valuing the said lands and for entering the same in their book, and making three copies as aforesaid, shall be allowed by the court of the said county of Amelia at the rate of six shillings per day each; to be levied by the said court on the landholders of the said county, in proportion to the present assessment of the lands therein.

CHAP. XXXVIII.

An act authorising the sale of the Marine Hospital.

(Passed the 24th of December, 1790.)

Marine hospital, to be sold.

SECT. 1. *BE it enacted by the General Assembly*, That the commissioners appointed by the executive, under the act, intitled "An act for establishing a marine hospital for the reception of aged and disabled seamen," or a majority of them, shall and they are hereby authorised and impowered to dispose of the said marine hospital to the Congress of the United States, for the purposes of its original institution.

Purchase money, how to be applied.

SECT. 2. The money arising from the sale thereof, the said commissioners or a majority of them, shall apply to the discharge of their contract for erecting the said building, and the residue (if any) shall be divided by the said commissioners, or a majority of them, between the towns of Norfolk and Portsmouth. One moiety shall be paid to the chamberlain of the borough of Norfolk, to be applied by the mayor, recorder and aldermen of the said borough of Norfolk, to the support of the acade-

my erected in the said borough, and the other moiety to John Kearnes, Willis Willson, John Nevison, Richard Blow, Samuel Davis, John Cowper, jun. and James Young, gentlemen trustees, to be by them applied to the purpose of erecting a school in the town of Portsmouth, for the education of orphan children.

Conveyance to be made by the executive.

SECT. 3. The executive shall, on application from the commissioners of the marine hospital, or a majority of them, convey the same, for the purpose of its original institution, to the Congress of the United States in like manner as the two acres of land appropriated for a light house was conveyed.

When this act commences.

SECT. 4. This act shall commence and be in force from the passing thereof.

CHAP. XXXIX.

An act to add twenty acres of land to the town of Charlottesvillle, in the county of Albemarle.

(Passed the 30th of November, 1790.)

Certain land added to Charlottesville.

SECT. 1. *BE it enacted by the General Assembly*, That twenty acres of land, the property of John Jouitt, adjoining the town of Charlottesville, in the county of Albemarle, shall be and the same are hereby vested in the trustees of the said town, and in Francis Walker, Thomas Bell, George Divers, Thomas Walker, Lewis Cornelius Schurk, and Isaac Miller, gentlemen, who are hereby appointed trustees in addition thereto, to be by them, or a majority of them laid off into lots of half an acre each, with convenient streets; and when so laid off, the same shall thenceforth be deemed and taken as part of the said town.

Additional trustees appointed

Lots when and how to be sold.

SECT. 2. So soon as the said land shall be laid off into lots and streets, the trustees, or a majority of them, shall proceed to sell the same at public auction for the best price that can be had, the time and place of which sale being previously advertised for three weeks in the Virginia Gazette, and at the courthouse of the said county on two successive court days; and convey the

said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house sixteen feet square at the least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and to pay the money arising from the sale of the said lots to the said John Jouitt, or his legal representatives.

Rights of purchasers.

SECT. 3. The purchasers of lots in the said town, so soon as they have built upon and saved the same, according to the conditions of their respective deeds of conveyance, shall then be entitled to, and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy. If the purchaser of any lot shall fail to build thereon within the time before limited, the said trustees, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

CHAP. XL.

An act for dividing the county of Henry.

(Passed the 26th of November, 1790.)

Henry county divided, and Patrick formed. Boundaries.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the first day of June next, the county of Henry shall be divided into two distinct counties, that is to say, all that part of the said county lying west of a line beginning on the line dividing the counties of Henry and Franklin, one mile above where it crosses Town creek, a branch of Smith's river, thence a parallel line with Pittsylvania line to the county line, shall be one distinct county, and called and known by the name of Patrick, and all the residue of the said county retain the name of Henry.

Court day;

SECT. 2. A court for the said county of Patrick shall be held by the justices thereof on the second Monday in every month, after the said division shall take place, in such manner as is provided by law for other counties, and shall be by their commissioners directed.

Justices, when and where to meet;

SECT. 3. The justices to be named in the commission of the peace for the said county of Patrick, shall meet at the house of Jonathan Hanby in the said county, upon the first court day after the said division shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit of: And thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they may think proper. *Provided always*, That the appointment of a place for holding courts and of a clerk, shall not be made, unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day when a majority shall be present.

To appoint a clerk and fix on a place for the court-house.

First sheriff, how to be appointed;

SECT. 4. The governor with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term and upon the same conditions as are by law appointed for other sheriffs.

Public dues and fees in new county, how to be collected.

SECT. 5. It shall be lawful for the sheriff of the said county of Henry to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof at the time such division shall take place, and shall be accountable for the same in like manner as if this act had not been made. And that the court of the said county of Henry shall have jurisdiction of all actions and suits in law or equity, which shall be depending before them at the time of the said division, and shall try and determine the same, issue process and award execution thereon.

New county in the same district as Henry.

SECT. 6. In all elections of a senator, the said county of Patrick shall be of the same district with the said county of Henry.

Justices of Henry to fix on a place for the court-house.

SECT. 7. *And be it further enacted*, That a majority of the justices of the said county of Henry, shall have power to fix upon a place for holding courts within the said county, and to assess and levy a sufficient sum of

money on the persons chargeable with the payment of levies and taxes within the said county, to erect a court-house and other public buildings for the use of the said county.

CHAP. XLI.

An act for dividing the county of Gloucester.

(Passed the 16th of December, 1790.)

Gloucester county divided, and Mathews formed. Boundaries.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the first day of May next, the county of Gloucester shall be divided into two distinct counties, that is to say, all that part of the said county lying to the eastward of a line, to begin at the mouth of North river, thence up the meanders thereof to the mill, thence up the eastern branch of the millpond to the head of Muddy creek, thence down the said creek to Piankatank river, shall be one distinct county, and called and known by the name of Mathews, and the residue of the said county shall retain the name of Gloucester.

Court day.

SECT. 2. A court for the said county of Mathews shall be held by the justices thereof on the second Monday in every month, after the said division shall take place, in such manner as is provided by law for other counties, and shall be by their commissions directed; and a court of quarterly sessions for the said county of Mathews shall be held in the months of March, May, August and November in every year.

Quarterly courts when to be held.

Justices to meet, when and where;

SECT. 3. The justices to be named in the commission of the peace for the said county of Mathews, shall meet at the house of Thomas Williams in the said county, upon the first court day after the said division takes place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof, as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to

To appoint a clerk, and fix on a place for the court-house.

appoint any place for holding courts as they may think proper. *Provided always*, That the appointment of a place for holding courts and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day when a majority shall be present.

First sheriff how to be appointed.

SECT. 4. The governor with advice of council shall appoint a person to be first sheriff of the said county, who shall continue in office during the term and upon the same conditions as by law appointed for other sheriffs.

Public dues and fees in new county, how to be collected.

SECT. 5. It shall be lawful for the sheriff of the said county of Gloucester to collect and make distress for any public dues or officers fees, which shall remain unpaid by the inhabitants thereof, at the time such division takes place, and shall be accountable for the same in like manner as if this act had not been made. The court of the said county of Gloucester shall have jurisdiction of all actions and suits depending before them, at the time of the said division, and shall try and determine the same, and award execution thereon.

New county in the same district as Gloucester.

SECT. 6. In all future elections of a senator, the said county of Mathews shall be of the same district as the county of Gloucester, and shall be included in the district with the said county of Gloucester, for which a court is to be holden in the city of Williamsburg.

CHAP. XLII.

An act to amend the act, intitled "An act for clearing and improving the navigation of James river."

(Passed the 20th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that the original sum subscribed by the James river company, as a capital for improving the navigation from Crow's ferry in the county

of Botetourt to tide water opposite the city of Richmond, is nearly expended, and it becomes necessary to make further provision for completing the work by increasing their capital stock: *Be it therefore enacted*, That it shall and may be lawful for the president and directors of the said company, to open new subscriptions for two hundred shares, in addition to the five hundred shares already subscribed; and books for that purpose shall be opened by the president and directors of the said company, in the same manner and at such places as directed by an act intitled "An act for clearing and improving the navigation of James river," and at such other places as the said president and directors or a majority of them shall think proper; those who shall become proprietors of shares by subscriptions as aforesaid, shall be secured in their interest of the said company, be liable to all the conditions, and subject to all the penalties, as prescribed in the said recited act; and also one other act intitled "An act giving a more speedy remedy against delinquent subscribers to the Patowmac and James river companies."

Books to be opened for new subscriptions:

Treasurer to subscribe for certain shares for the state;

SECT. 2. The treasurer for the Commonwealth shall and he is hereby empowered and required to subscribe in behalf of the Commonwealth for one hundred shares in the new subscriptions to be opened for extending the capital of the said company for the purposes aforesaid: *Provided always, and be it further enacted*, That the treasurer shall on behalf of the Commonwealth subscribe not more than fifty shares, until the like number be subscribed for by private citizens, after which the treasurer may subscribe from time to time as many shares as shall be subscribed by individuals so as not to exceed fifty more shares and so as to make up one hundred additional shares on public account.

SECT. 3. *And whereas* by the said recited act a right of preemption is reserved to the Commonwealth of purchasing such share or shares as the proprietors in the James river navigation shall offer for sale, and there having been no agent as yet appointed agreeably to the said recited act to make such purchases; *Be it therefore enacted*, That the treasurer for the time being shall and he is hereby authorized and empowered to purchase in behalf of the Commonwealth so many shares in the said company as shall be offered for sale. Provided the same shall not exceed fifty shares, nor exceed the sum to be paid by the original proprietor for each share.

And to purchase shares offered for sale.

Directors to make a return of delinquent subscribers.

Sect. 4. It shall be the duty of the directors of the said James river company to make return once in every year between the first day of October and the first day of November to the treasurer of this Commonwealth of the delinquent subscribers for shares in the said company, and the said directors may make sale thereof at such time and place as they shall appoint, with consent of the treasurer, giving at least three months previous notice thereof in some of the public news-papers, and if any of the shares of such delinquents shall sell for less than the amount for which such delinquents may be in arrears, the directors shall forthwith cause the most effectual legal measures to be taken for the recovery of such arrears.

CHAP. XLIII.

An act for forming a new county out of the counties of Augusta, Botetourt and Greenbrier.

(Passed the 14th of December, 1790.)

Bath county formed out of Augusta, Botetourt and Greenbrier.

Boundaries.

Sect. 1. *Be it enacted by the General Assembly*, That from and after the first day of May next, all those parts of the counties of Augusta, Botetourt and Greenbrier, within the following bounds, to wit, beginning at the west corner of Pendleton county, thence to the top of the ridge dividing the head waters of the South branch from those of Jackson's river, thence a straight line to the lower end of John Redman's plantation on the Cow-pasture river, thence to the top of the ridge that divides the waters of the Cow-pasture from those of the Calf-pasture, thence along the same as far as the ridge that divides Hamilton's creek from Mill creek, thence to the Mill mountain, and with the same to the north corner of the line of Rockbridge county, thence along the said mountain crossing the line of Botetourt county, to the ridge that divides the waters of Pad's creek from those of Simpson's creek, thence along the said ridge to the Cow-pasture river, thence crossing the said river a direct course and crossing Jackson's river, at the mouth of

Dunlap's creek, thence up the same as far as the narrows above the plantation of David Tate, sen. so as to leave the inhabitants of the said creek in Botetourt county, thence a direct course to the top of the Allegany mountain, where the road from the Warm Springs to Greenbrier courthouse crosses the said mountain, thence along the top of the said mountain opposite the head waters of Anthony's creek, thence a direct course crossing Greenbrier river to the end of the Droop mountain, thence up the same to the great Greenbrier mountain, thence along the said mountain to the line of Randolph county, thence with the same along the said mountain dividing the waters of Monongalia and Cheat from those of Greenbrier river, and thence to the beginning, shall form one distinct county, and be called and known by the name of Bath.

Court day.

SECT. 2. A court for the said county of Bath shall be held by the justices thereof on the second Tuesday in every month after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed; and the court of quarterly sessions for the said county of Bath shall be held in the months of March, May, August and November in every year.

Quarterly courts, when to be held.

Justices to meet, when and where,

SECT. 3. The justices to be named in the commission of the peace for the said county of Bath, shall meet at the house of Margaret Lewis at the Warm Springs, in the said county, upon the first court day after the said county takes place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof, as the situation and convenience will admit of; and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts, as they shall think proper. *Provided always*, That the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be post-

to appoint a clerk and fix on a place for the courthouse.

poned until some court day, when a majority shall be present.

SECT. 4. The governor with advice of the council shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are by law appointed for other sheriffs. First sheriff, how to be appointed.

SECT. 5. *Provided always*, That it shall be lawful for the sheriffs of each of the said counties of Augusta, Botetourt and Greenbrier, to collect and make distress for any public dues or officers fees which shall remain unpaid by the inhabitants thereof, at the time the said county shall take place, and shall be accountable for the same in like manner as if this act had not been made. And the courts of the said counties shall have jurisdiction of all actions and suits which shall be depending before them, at the time the said county of Bath shall take place; and shall try and determine the same and award execution thereon. Public dues and fees in new county, how to be collected.

SECT. 6. In all future elections of a senator, the said county of Bath shall be of the same district as the county of Augusta: New county in the same district as Augusta.

SECT. 7. *And be it further enacted*, That all that part of the county of Augusta lying on the head waters of the Bull-pasture and Cow-pasture rivers, not included within the limits of the county hereby established, shall be and the same is hereby added to the county of Pendleton. Part of Augusta added to Pendleton.

SECT. 8. The said county of Bath shall be included in the district with the said county of Augusta, for which a court is to be holden in Staunton. New county in the same district as Augusta.

CHAP. XLIV.

An act to regulate the inspection of Hemp.

(Passed the 24th of December, 1790.)

SECT. 1. WHEREAS it is represented to this present General Assembly, that great loss and inconvenience hath been sustained on account of the present mode established by law for the inspection of hemp, particularly in permitting the inspector to clean that, which may be Preamble

refused by him: For remedy whereof, *Be it enacted*, That from and after the passing of this act, public warehouses for the reception of hemp, shall be kept at the places herein after mentioned, that is to say, at or near the city of Richmond and towns of Alexandria, Fredericksburg, Manchester, in that part of the town of Petersburg, included in the county of Dinwiddie, and at the Great Falls in the county of Loudoun; and it shall and may be lawful for the justices of the courts of such counties, wherein such inspections are established, and they are hereby required upon the receipt of this act, to provide good and sufficient warehouses for the reception of all hemp which may be brought to the same; and the said courts shall, and they are hereby required and empowered to agree with some person or persons, to erect or rent good and sufficient warehouses for the reception and preservation of all hemp which may be brought to the same, and shall certify the charges thereof to the treasurer of this state, who is hereby directed to pay the same out of the aggregate fund.

Inspections of hemp to be established at certain places.

Warehouses to be provided.

Inspectors, how to be appointed.

Their duty;

Quality of the hemp to be specified in the note.

Allowance to the inspectors.

Sect. 2. *And be it further enacted*, That the courts of the counties wherein any such inspection for the receipt of hemp shall be established by this act, are hereby required to appoint a fit and able person, not being concerned in mercantile or ropemaking business, to have the care and charge of the said warehouse, whose duty it shall be carefully to inspect and examine all hemp which shall be brought to his warehouse, separating that which shall be strong, dry and sound, from that which may be unsound and unfit for exportation, and when so separated, shall be distinguished in the note by him given in manner following, that is to say, all that which shall appear clean, dry and well conditioned, shall be termed first quality; and that which may appear dry, strong and well conditioned, although not perfectly clean, shall be termed second or third rate, according to the cleanness of the same; but if it shall appear on the offering of any hemp for inspection, that it contains so great a quantity of trash or unsound, so as to render it unfit for manufacturing or exportation, the inspector shall not give his note for the same, but the owner shall be at liberty to dispose of it as he may think proper.

Sect. 3. *And be it further enacted*, That the inspector at any of the warehouses by this act established, shall and may demand and receive for his services as

inspector, for every gross ton the sum of fifteen shillings, and for every ton by him refused, the sum of ten shillings, and so in proportion for any lesser quantity, to be paid down to the inspector on delivering the note, or by the person whose hemp may be refused (as the case may be) one half of which sum shall be for the services of the inspector, and the other one half so received, shall be paid to the treasurer of this Commonwealth, or to the owner of the warehouse, (as the case may be) quarterly, under the penalty of forfeiting to the Commonwealth, or to the owner of such warehouse, three hundred pounds, recoverable on motion before any court of record within this Commonwealth, giving ten days previous notice of such motion.

Hemp to be reprized in bale boxes.

SECT. 4. *And be it further enacted*, That all hemp, sound and merchantable, distinguished as above directed, shall by the inspector be reprized in bale boxes three feet two inches long in the clear, three feet deep, one foot eight inches at bottom, and two feet wide at the top, with a label annexed thereto, stamped with the quality and weight of each bale, and the owners name, which quality, weight and owners name shall be entered in a book kept for that purpose, as well as the weight and owners name, of any hemp by him refused; and he is hereby required to give a certificate for all hemp by him passed in form following, viz. I, A. B. do certify, that C. D. hath deposited tons or pounds of hemp (as the case may be) of first, second or third rate, (as the case may be) passed inspection at the warehouse of of which I am inspector. Witness my hand this day of in the year

Form of certificate for hemp inspected and passed.

Oaths of inspectors.

SECT. 5. *And be it further enacted*, That the inspectors appointed by this act, previous to the execution of their office, shall take the following oath or affirmation, (as the case may be) viz. "I, A. B. do solemnly swear or affirm, (as the case may be) diligently to examine and receive all hemp brought to the warehouse where I am inspector, and that I will not pass any hemp that is not in my judgment dry, sound, well conditioned, and merchantable, nor pass or mark any bale of hemp contrary to the intent and meaning of the act, intitled, "An act to regulate the inspection of hemp," nor refuse any hemp that is in my judgment dry, sound, well conditioned, and fit for exportation, nor fail to enter in a book, as directed by this act, the weight of all hemp by me so passed or

refused, nor alter or give out any hemp, other than that, for which the receipt to be taken was given, but that I will in all things well and faithfully discharge my duty as an inspector, according to the best of my skill and judgment, and agreeably to the intention of the said recited act, without fear, favour, affection, malice or partiality, so help me God."

Penalty on county courts for not providing warehouses, &c.

SECT. 6. *And be it further enacted*, That if any court should fail or refuse in providing such houses, scales, screws, or other necessary conveniencies at the places appointed by this act, which they are hereby authorised and required to do out of the aggregate fund aforesaid, they shall forfeit and pay the sum of three hundred pounds, to be recovered with costs by action of debt or information against such justices jointly, one moiety to the prosecutor, and the other moiety to the use of the commonwealth: *And be it further enacted*, That the act, intitled "An act concerning the inspection of hemp," shall be, and the same is hereby repealed.

CHAP. XLV.

An act to establish several Towns.

(Passed the 16th of December, 1790.)

Towns of George Town, in Woodford county;

SECT. 1. *BE it enacted by the General Assembly*, That forty in and thirty-seven out lots as the same are now laid off, the property of Elijah Craig lying in the county of Woodford shall be and the same are hereby established a town by the name of George Town, and that Robert Johnson, William Cave, Rodes Thompson, Toliver Craig, John Grant, Archibald Campbell and William Henry, gentlemen, are constituted and appointed trustees thereof.

Beverley, in Randolph county;

SECT. 2. That twenty acres of land the property of James Westfall as the same are already laid off into lots and streets in the county of Randolph adjoining the land whereon the courthouse stands, shall be established a town by the name of Beverley, and that John Wilson, Jacob Westfall, Sylvester Ward, Thomas Phillips, Hezekiah Rosecrouts, William Wormesley and Valentine

Stormaker, gentlemen, shall be and they are hereby constituted trustees thereof.

Fontville, at the Sweet Springs;

SECT. 3. That thirty acres of land on the south-east side of the Sweet Springs in the county of Botetourt the property of William Lewis shall be and they are hereby vested in James Breckenridge, Martin M'Ferran, Henry Bowyer, Matthew Harvey, John Beal, John Wood, John Smith, Robert Harvey, John Hawkins, Thomas Madison and Sampson Sawyers, gentlemen trustees, to be by them or a majority of them laid off into lots of half an acre each with convenient streets, and established a town by the name of Fontville.

Matildaville, at the Great Falls of Patowmack;

SECT. 4. That forty acres of land at the Great Falls of Patowmack in the county of Loudoun, in the possession of Bryan Fairfax shall be and they are hereby vested in George Gilpin, Albert Russell, William Gunnell, Josiah Clapham, Richard Bland Lee, Levin Powell and Samuel Love, gentlemen trustees, to be by them or a majority of them laid off into lots of half an acre each with convenient streets and established a town by the name of Matildaville.

Cartersville, at Carter's ferry;

SECT. 5. That twenty-seven acres of land at Carter's ferry in the county of Cumberland the property of John Woodson shall be and they are hereby vested in Joseph Carrington, Mayo Carrington, Willis Wilson, James Deane, Walter Warfield and William Ronald, gentlemen trustees, to be by them or a majority of them laid off into lots of half an acre each with convenient streets, and established a town by the name of Cartersville.

and Springfield in Hampshire county established.

SECT. 6. And that one hundred acres of land lying at the Cross Roads in the county of Hampshire the property of William and Samuel Abernethy shall be and they are hereby vested in John Taylor, William Campbell, Robert Rennolds, Jacob Earsom, John Pancake, Fielding Calmes and Andrew Hughes, gentlemen trustees, to be by them or a majority of them laid off into lots of half an acre each with convenient streets, and established a town by the name of Springfield.

Lots, when and how to be sold.

SECT. 7. So soon as the lands at the Sweet Springs, at the Great Falls, at Carter's ferry, and at the Cross Roads shall respectively be laid off into lots, the trustees of each, or a majority of them shall proceed to sell the same at public auction for the best price that can be had, the time and place of the sale of the said lots in the

towns of Fontville, Matildaville, Cartersville and Springfield shall be previously advertised two months in the Virginia Gazette, and to convey the said lots to the purchasers thereof in fee, subject to the condition of building on each a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale, and pay the money arising from such sales to the proprietors of the said lands respectively or their legal representatives.

Powers of the trustees.

SECT. 8. The trustees of the said towns respectively, or a majority of them are empowered to make such rules and orders for the regular building of houses therein as to them shall seem best, and to settle and determine all disputes about the bounds of the said lots. So soon as the purchasers of lots in the said towns shall have built thereon, a dwelling house sixteen feet square with a brick or stone chimney, such purchasers shall then be intitled to and have and enjoy all the rights, privileges and immunities which the freeholders and inhabitants of other towns in this state not incorporated, hold and enjoy.

Condition on which the lots are to be held.

SECT. 9. If the purchaser of any lot in the towns of George Town, Beverley, Fontville, Cartersville, Matildaville and Springfield or either of them shall fail to build thereon within the time herein before limited for that purpose, the trustees of the said town where such failure shall happen, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Vacancies in the trustees how to be supplied.

SECT. 10. In case of the death, resignation or removal out of the county of one or more of the trustees of the said towns respectively, the vacancy thereby occasioned shall be supplied by the remaining trustees, and the person so elected shall have the same power and authority, as if he had been particularly named in this act.

Part of the land at the Sweet Springs set apart for public use.

SECT. 11. *And be it further enacted*, That three acres of ground to include the said Sweet Springs shall be and they are hereby vested in the trustees of the town at the said place and their successors for ever; in trust to and for the use of all such persons as may from time to time attend the same for the recovery of their health.

No person to hold more than two lots in the town at the Sweet Springs.

SECT. 12. No person shall hold more than two lots in the town at the Sweet Springs, nor shall the trustees convey more than that number to any one person. *Provided always*, That nothing herein contained shall be

construed to authorize the trustees of the town at the Sweet Springs to sell the lots whereon the court-house of the said county and the tavern of the said William Lewis are built.

CHAP. XLVI.

An act authorizing several lotteries, and the sale of certain lots in the town of Portsmouth.

(Passed the 20th of December, 1790.)

Lotteries authorised for the Transylvania seminary;

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for the trustees of the Transylvania seminary, or a majority of them, to raise by one or more lotteries, a sum not exceeding five hundred pounds, for the purpose of erecting an academy.

For building a church in Warminster;

SECT. 2. That it shall and may be lawful for the trustees of the town of Warminster, or a majority of them, to raise by one or more lotteries, a sum not exceeding two hundred pounds, to be by them applied towards building a church in the vicinity of the said town; and that it shall and may be lawful for the said trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding two hundred pounds, to be by them applied towards paying the expence of, as well as the damages incurred by, cutting a road from Irish creek gap, and one other from Moore's iron works, to the aforesaid town of Warminster

and cutting certain roads to the said town.

For building a church in Halifax;

SECT 3. That it shall and may be lawful for John Coleman, Isaac Coles, Robert Wooding, George Carrington, Michael Roberts, William Hamlet and Henry E Coleman, or a majority of them, to raise by one or more lotteries, a sum not exceeding two hundred pounds, to be by them applied towards building a church in the parish of Antrim and county of Halifax.

for erecting an academy in Southampton;

SECT. 4. That it shall and may be lawful for John S. Wills, Benjamin Blunt, James Wilkinson, William Urquhart, John Taylor, Francis Boykin, George Purdie, James Wills and Samuel Kello, to raise by one or more lotteries, a sum not exceeding three hundred pounds, to

be by them applied towards erecting an academy in the county of Southampton, which shall be called by the name of Millfield Academy.

for erecting a paper-mill near Staunton;

SECT. 5. That it shall be lawful for Alexander St. Clair, William Chambers, Robert Douthat, John Boys, James Lyle, junior, Robert Gratton, Anthony Mustoe, Robert Gamble and William Bowyer, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding three hundred pounds, to be by them applied towards defraying the expence of erecting a paper mill near the town of Staunton, for the use of Gideon Morgan and Peter Burkhart.

for building a church in Alexandria;

SECT. 6. That it shall be lawful for William Lowry, Robert M'Crea, John Murray, Andrew Jameison, Jonathan Swift, James Irwin, Jesse Taylor, John Dundas, William Hunter, junior, Josiah Watson, Robert Mease and Thomas Williams, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding five hundred pounds, to be by them applied towards completing the building of a church in the town of Alexandria, for the use of the members of the Presbyterian society.

for the benefit of Nathaniel Twining;

SECT. 7. That it shall be lawful for John Marshall, John Hoomes, John Harvie, John Pendleton, junior, Alexander Montgomery, John Groves and John Brown, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding two thousand pounds, to be by them paid to Nathaniel Twining.

for building a church in Petersburg;

SECT. 8. That it shall be lawful for Peterson Goodwyn, Robert Bolling, junior, James Campbell, John Grammer, Thomas Griffin Peachy, John Shore and Samuel Davis, gentlemen trustees, or a majority of them, to raise by one or more lotteries a sum not exceeding seven hundred and fifty pounds, to be by them applied towards paying the expence of building a church in the town of Petersburg, for the use of the members of the Protestant Episcopal church.

for completing a church in Shephard's town;

SECT. 9. That it shall and may be lawful for John Kearsley, John Mark, John Morrow, William Buckles and Lawrence Vandevier, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding two hundred and fifty pounds, to be by them applied towards completing the building of a church in Shephard's town in the county of Berkley, for the use of the members of the Presbyterian society.

for paving the streets of Alexandria;

SECT. 10. That it shall be lawful for William Brown, Richard Conway, John Potts, junior, Josiah Watson, Olney Winsor, Jonathan Swift and William Hodgson, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding five thousand pounds, to be by them applied towards paying the expences of paving the streets in the town of Alexandria.

for cutting a road from Rockfish Gap, to Scott's and Nicholas's landings;

SECT. 11. That it shall be lawful for Francis Walker, William Clark, Nicholas Lewis, John Breckenridge, George Divers, William Douglas Meriwether, Charles Irving and Isaac Davis, gentlemen trustees, or a majority of them, to raise by lottery, a sum not exceeding four hundred pounds, to be by them applied towards paying the expence of, as well as the damages incurred by, cutting a road from Rockfish Gap to Nicholas's and Scott's landing on Fluvanna river, in the county of Albemarle.

and for erecting a bridge over the marsh between Gosport and Portsmouth;

SECT. 12. And that it shall be lawful for John Kearnes, Wills Cowper, Willis Wilson, Samuel Davis, John Nevison, Richard Blow, Josiah Butts, James Young, James B. Nickolls and John Cowper, junior, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding four hundred pounds, and that they or a majority of them shall sell the lots lying on the back part of the town of Portsmouth, formerly called Gosport, the property of this Commonwealth, for the best price that can be had, having previously advertised the time and place of such sale for four weeks in the Virginia Gazette, and convey the same to the purchaser or purchasers in fee; the money arising from the sales of the said lots, as well as the said lottery, after defraying the expences thereof, shall be applied by the said trustees towards erecting a bridge over the creek, and raising a solid causey over the marsh dividing that part of the town known by the name of Gosport from the other part, and for cutting a road from the said bridge to Deep creek.

Certain lots in Portsmouth to be sold for the same purpose.

A sum of money to be raised by a lottery for the Amicable Society.

SECT. 13. *And be it further enacted*, That it shall be lawful for Anthony Singleton, Alexander Montgomery, Charles Hopkins, Alexander Buchanan, John Groves, George Weir and Joseph Higbee, gentlemen trustees, or a majority of them, to raise by one or more lotteries, a sum not exceeding one thousand pounds, to be by them placed in the funds of the Amicable Society of Richmond, subject to the purposes of that institution.

CHAP. XLVII.

An act to amend the act which establishes the town of Hopewell in the county of Bourbon, and for altering the name of the said town.

(Passed the 1st of December, 1790.)

Preamble.

SECT. 1. WHEREAS by an act of Assembly passed at the last session, intitled "An act to establish a town in each of the counties of Madison, Albemarle and Bourbon," two hundred and fifty acres of land at the courthouse of the said county of Bourbon, as laid off into lots and streets by a certain Lawrence Sprotsman, the then supposed proprietor thereof, was established a town by the name of Hopewell, of which Notley Conn, Charles Smith, jun. John Edwards, James Garrard, Edward Waller, Thomas West, James Lanier, James Little and James Duncan, gentlemen, were constituted trustees; And whereas, since the passing the said act many doubts have arisen who is the real proprietor of the said two hundred and fifty acres of land, and in consequence thereof the present holders of many of the said lots are disquieted, and the sale of the remainder thereof thereby prevented.

Trustees appointed;

SECT. 2. *Be it therefore enacted by the General Assembly*, That from and after the passing of this act the said two hundred and fifty acres of land as laid off into lots and streets, shall be and are hereby vested in the said Notley Conn, Charles Smith, jun. John Edwards, James Garrard, Edward Waller, Thomas West, James Lanier, James Little and James Duncan, gentlemen trustees, or a majority of them.

Lots when and how to be sold;

SECT. 3. The said trustees or a majority of them shall proceed to sell such of the said lots which now remain unsold at public auction for the best price that can be had, the time and place of which sale to be previously advertised two months in the Kentuckey Gazette, and convey the same to the purchaser or purchasers their heirs and assigns; subject however to the same rules, orders and conditions as the said lots are subjected to by the said recited act.

Account of the sales to be

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said trustees shall as soon as the said

sale shall be completed, return an account thereof to the court of the said county of Bourbon, to be there recorded, and the money arising from such sale shall be retained by them for the use and benefit of the person or persons in whom the title to the said two hundred and fifty acres of land shall hereafter be established, to be paid to such person or persons or their legal representatives accordingly. *Provided nevertheless, and be it further enacted*, That in case the title of the said two hundred and fifty acres of land shall hereafter be established in any other person or persons than in the said Lawrence Sprotsman, the said trustees, shall in such case convey such of the lots as were sold by him to the purchasers thereof in fee simple, and the purchasers or holders of such lots shall be subject only to account with the real proprietor thereof, for the value of the same when originally purchased as unimproved lots.

returned to Bourbon county court.

Money arising therefrom how to be applied;

SECT. 5. *And be it further enacted*, That from and after the passing of this act the name of the said town shall be altered, and from thenceforth the same shall be established by the name of Paris; any law to the contrary hereof notwithstanding.

Name of Hopewell altered to Paris.

CHAP. XLVIII.

An act for appropriating a farther sum of money for the Capitol.

(Passed the 28th of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That out of any money in the treasury the sum of fifteen hundred and sixty-two pounds, shall be appropriated and applied by the directors of public buildings to the payment of any balances due on account of work done to the Capitol, and also for the completion of the several unfinished parts thereof.

A sum of money appropriated for completing certain parts of the Capitol;

SECT. 2. The auditor of public accounts shall, upon orders from the executive, issue his warrants to the said directors of the public buildings for the said sum of money, as the same shall become necessary.

CHAP. XLIX.

An act giving further time to the Commissioners appointed for surveying and apportioning the lands granted to the Illinois regiment, to execute deeds for the same.

(Passed the 27th of November, 1790.)

Preamble.

SECT. 1. WHEREAS the powers given to the commissioners appointed by two acts of Assembly, the one intitled "An act for surveying and apportioning the lands granted to the Illinois regiment, and establishing a town within the said grant," and the other amendatory thereof have lately expired, and application hath been made to this Assembly for a partial continuance of such powers, in as much as that the said commissioners may continue to execute deeds for all claims which have been heretofore settled and determined by them:

Commissioners to continue to grant deeds for lands, to the Illinois regiment.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the said commissioners, or any three of them, shall be and they are hereby authorised and impowered upon application to them made for that purpose, to continue to grant deeds to the respective claimants, intitled to portions of land under the said acts of Assembly, whose titles thereto have been heretofore settled and determined, in the same manner and upon the same conditions as prescribed by the said recited acts: *Provided nevertheless, and be it further enacted*, That the said commissioners shall not continue to execute such deeds after the first day of June one thousand seven hundred and ninety-two, and that if any person shall fail within that period to make application to the commissioners for a deed, and pay the legal fees therefor, his right to the land allowed him, shall be forfeited.

When the lands shall be forfeited for not taking out deeds.

CHAP. L.

An act giving further time to persons who have suffered by the destruction of Byrd's warehouses to establish their respective claims.

(Passed the 8th of November, 1790.)

Preamble.

SECT. 1. WHEREAS the powers given to the commissioners appointed by one act of Assembly passed in the year one thousand seven hundred and eighty-six, intitled "An act for ascertaining and liquidating the claims of the sufferers by the destruction of tobacco at Byrd's warehouses, and to suspend the re-building of the said warehouses,' have expired, and there still remain some few claims of persons for tobacco burnt at the said warehouses to ascertain and settle.

The act respecting tobacco burnt at Byrd's warehouse revived.

SECT. 2. *Be it therefore enacted by the General Assembly*, That so much of the said recited act as authorizes the commissioners therein named, to ascertain and liquidate the claims of the sufferers by the destruction of tobacco at Byrd's warehouses, shall after the passing of this act be and the same is hereby revived, and shall continue and be in force until the purposes for which it was enacted shall be answered.

CHAP. LI.

An act giving further time to purchasers of lots in certain towns to build thereon, and for other purposes.

(Passed the 11th of December, 1790.)

Further time allowed to improve lots, in towns of Maysville, Port Conway, Dumfries, Lewisburg, and West Liberty.

SECT. 1 WHEREAS the purchasers of lots in the town of Maysville in the county of Mason, in the town of Port Conway in the county of King George, in the town of Dumfries in the county of Prince William, in the town of Lewisburg in the county of Greenbrier and in the town of West Liberty, from the difficulty of procuring materials, have not been able to build on their said lots within the time prescribed by law.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the further time of four years from the passing of this act, shall be allowed the purchasers of lots in the said towns to build upon and save the same.

SECT. 3. And whereas it is represented to this Assembly that for want of a timely promulgation of the law, the trustees for the town of West Liberty in the county of Ohio, have not sold the lots in the said town: *Be it therefore enacted*, That the said trustees shall have the further time of twelve months from the passing of this act to sell the lots in the said town of West Liberty.

Lots in West Liberty, when to be sold;

CHAP. LII.

An act to amend an act, intitled "An act appropriating one sixth part of the Surveyor's Fees in the district of Kentuckey, to the use of the Transylvania Seminary, and for other purposes."

(Passed the 20th of December, 1790.)

Surveyors in Kentuckey to pay part of their fees to the trustees of the Transylvania seminary;

SECT. 1. *BE it enacted by the General Assembly*, That the principal surveyors of the several counties within the district of Kentuckey, now in office, and the principal surveyors of the lands granted by law to the officers and soldiers on continental and state establishments, shall in one month after requisition made by the trustees of the Transylvania seminary, give bond and sufficient security in a reasonable sum for the annual payment to the said trustees, of one sixth of the fees which shall become due to them after the first day of January one thousand seven hundred and ninety-one; and in case any of the said surveyors shall fail or refuse to give such bond and security, he or they shall forfeit and pay to the said trustees for the use of the said seminary, the sum of one hundred pounds annually, until he or they shall give such bond and security

No surveyor to be qualified until he enters

SECT. 2. *And be it further enacted*, That no surveyor hereafter appointed within the said district, shall be admitted to take his oath of office without having first pro-

duced to the court a certificate from the trustees aforesaid, or their agent, that he has given bond and security to them for the due payment of one sixth of all his fees, and if any court shall suffer or permit any surveyor to take such oath without such certificate, the justices composing the court, shall each forfeit and pay to the said trustees the sum of twenty pounds, and the surveyor the sum of one hundred pounds, and the surveyor shall moreover forfeit and pay the like sum of one hundred pounds annually, until he gives such bond and security.

into bond with security for that purpose;

SECT. 3. *And be it further enacted*, That the surveyors aforesaid shall account for and pay to the said trustees in the month of September annually, the respective sums due by them for the former year.

When the said fees hereafter accruing are to be paid;

SECT. 4 *And be it further enacted*, That it shall be lawful for the trustees aforesaid after two months demand made of the said surveyors, and on either of their failure or neglect to pay the same, to recover of the surveyors so failing or neglecting whatever may be due from them since the act appropriating the sixth of the surveyors fees in the Kentuckey district, to the use of the Transylvania seminary has been in force.

When those now due, are to be paid.

SECT. 5. *And be it further enacted*, That the several surveyors aforesaid shall annually in the month of March make return on oath to the chairman, or to the treasurer of the board of trustees, of all the fees received by and due to him for the former year, or be subject to the payment of the penalty of one hundred pounds to them for his failure or neglect.

When the said surveyors are to account with the trustees.

SECT. 6. And whereas the present method of examining principal surveyors is extremely inconvenient to those residing in the district of Kentuckey, *Be it therefore enacted*, That hereafter it shall be lawful for the board of trustees of the Transylvania seminary, to appoint three or more of their own body, or some other fit persons, to examine those recommended by the county courts of the said district, as proper persons to execute the office of surveyor, and if found qualified, to certify the same to the governor, which shall be as effectual in law, as the mode heretofore practised.

Surveyors in Kentuckey, how to be appointed.

SECT. 7. All penalties incurred, or other monies directed to be paid by this act, shall and may be recovered by the said trustees for the use of the said seminary, with costs, by motion in the supreme court of the Kentuckey

Penalties, how to be recovered and applied.

district, or in any of the county courts; Provided ten days previous notice of such motion hath been given.

SECT. 8. *And be it further enacted*, That so much of any act or acts as comes within the purview of this act, shall be and the same is hereby repealed.

SECT. 9. And whereas the directors of the public buildings have hitherto rented out a house standing on the public ground as a school house, and it would be an encouragement to the said school if the said house was suffered to be held for that purpose free of rent. *Be it therefore enacted*, That from and after the first day of January next, the said directors may suffer the said house to be occupied for a school free of rent, so long as the public shall have no use for the same.

No rent to be paid for a house on the public ground used for a school.

CHAP. LIII.

An act to amend an act, intitled "An act for establishing a town in the county of Bourbon."

(Passed the 12th of November, 1790.)

Preamble.

SECT. 1. WHEREAS by the act of General Assembly passed in the year of our Lord one thousand seven hundred and eighty-six, intitled "An act to establish a town in the county of Bourbon," the boundaries of the said town land are not described, and it is necessary for the prevention of disputes that the same should be done.

Bounds of the town of Washington, in Bourbon county.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the following tract of land, beginning at two sugar trees near a small branch, the south east corner of a survey made in the name of Edmund Byne, thence north to John Tebbs's pre-emption line, thence west to Simon Kenton assignee of Joseph Frezier, thence along said Kenton's line south twenty-four degrees west to a line of a survey of three hundred and twenty acres purchased from said Kenton by William Wood and Arthur Fox, thence west with said line to a hackberry corner to said survey, thence south one hundred and four poles to a white thorn, thence west forty-six poles to two honey locusts and hickory, corner to a survey made in the name

of John Craig and Robert Johnston assignees of John May who was assignee of James M'Kinley, thence with their line south to a white ash and elm, another corner to said Craig and Johnston, thence east sixty-five poles to a forked buckeye and white ash saplin, in a line of a survey made for William Ward, thence north to a large sugar tree marked as a corner, thence north eighty-eight degrees east so far, that a line running due north shall strike the beginning, shall be from and after the passing of this act, deemed and taken as the bounds of the said town of Washington in the said county of Bourbon, which has been laid off into in and out lots with convenient streets for that purpose, according to the intention of the said recited act; and that Edmund Lyne, Henry Lee, Miles W. Conway, Arthur Fox, Robert Rankin, John Gutridge, William Lamb, Alexander D Orr, Thomas Sloe and Richard Corwine, gentlemen, shall be appointed trustees for carrying this act into complete execution, which trustees or a majority of them, shall be authorized and empowered to make such rules, orders and regulations for building thereon, as to them shall seem most conducive to the convenience of the inhabitants of the said town, and to settle and determine any dispute that may hereafter arise respecting the boundaries thereof. Trustees appointed;

SECT. 3. In case of the death, resignation, removal out of the said county, or other legal disability of any one or more of the said trustees, it shall be lawful for the remaining trustees to choose others in their stead; which trustees so elected, shall have the same powers and authority, as any other trustees herein named. Vacancies, how to be supplied.

SECT. 4. *And be it further enacted*, That so soon as the owner or owners of any lot or lots within the said town, shall have built a dwelling house sixteen feet square with a brick or stone chimney, such owner or owners shall have and enjoy the same privileges and immunities, which the freeholders and inhabitants of other towns not incorporated, hold and enjoy. Privileges of the owners of lots.

CHAP. LIV.

An act removing obstructions from the road leading through the Wilderness to Kentuckey.

(Passed the 25th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented to this present General Assembly, that the road leading through the Wilderness to the district of Kentuckey, is much out of repair, whereby the intercourse between the inhabitants of the said district and the eastern part of this state is greatly obstructed.

Part of the taxes due from certain counties appropriated to open the road to Kentuckey.

SECT. 2. *Be it enacted by the General Assembly*, That a sum not exceeding six hundred pounds, out of the public taxes due from the counties of Jefferson, Nelson, Lincoln, Mercer and Madison, shall be and the same is hereby appropriated to the purpose of opening and improving the said road leading through the Wilderness from the line of Russel county to Englis's station in the said district, and that John Logan, Harry Innes, Isaac Shelby, Samuel M'Dowell and John Miller, gentlemen, be appointed commissioners, who or any three of them are hereby impowered and directed to superintend the said work, and to contract with some fit person to undertake the clearing and improving the said road.

Commissioners appointed.

Undertaker to give a preference to the inhabitants of said counties for necessaries, &c. furnished;

SECT. 3. *And be it further enacted*, That it shall be a condition in the said contract, that a preference shall be given by the said undertaker for labour, provision or any other necessaries that may be wanted and furnished, or that can be obtained from the inhabitants of the said counties in discharge of the public taxes due from their respective counties; and the several accounts of such persons who may have discharged their taxes as aforesaid, shall be liquidated and adjusted by the said undertaker, and a certificate granted by him for the amount thereof, expressing the time and number of days served, the time when the service was performed, and the allowance for such service, which said certificate granted as aforesaid, shall be receivable by the sheriff of that county, in which the said person performing the said service was resident, in discharge of the public taxes due from that county, and the same shall be received in settlement of his ac-

To grant them certificates therefor;

which shall be receivable in discharge of the taxes due from said counties.

counts with the receiver, who shall be allowed the same in the settlement of his account with the treasurer.

Undertaker to give bond with security for the performance of his contract.

SECT. 4. *And be it further enacted*, That the said undertaker shall, before he enters into the execution of the said work, enter into bond with approved security in the penalty of twelve hundred pounds, with the said board of commissioners, for the faithful performance of the said undertaking, to be recoverable on failure, by motion in any court of record, upon giving ten days previous notice thereof.

CHAP. LV.

An act for altering the days of holding courts in the town of Winchester and in certain counties, and for changing the Quarter Sessions in certain counties.

(Passed the 14th of December, 1790.)

When courts shall be held in the town of Winchester; In the counties of Caroline; Washington, Chesterfield, Russell, and Wythe.

SECT. 1. *BE it enacted*, That from and after the first day of February next, a court of hustings for the town of Winchester, shall be held on the Monday before the first Tuesday in every month; a court for the county of Caroline shall be held on the second Tuesday in every month; a court for the county of Washington shall be held on the third Tuesday in every month; a court for the county of Chesterfield shall be held on the second Monday in every month; a court for the county of Russell shall be held on the fourth Tuesday in every month; and a court for the county of Wythe shall be held on the second Tuesday in every month.

When the courts of quarter session shall be held in the counties of Wythe; Prince William, Berkeley and Ohio.

SECT. 2. *And be it further enacted*, That the courts of quarter session for the said county of Wythe heretofore held in the months of March, May, August and November, shall from and after the first day of February next, be held in the months of April, June, September and November annually; and that the courts of quarter sessions for the counties of Prince William, Berkeley and Ohio, shall henceforth be held on the respective court days of the said counties in the month of June, instead of the month of May in every year. Any law to the contrary notwithstanding.

CHAP. LVI.

An act to empower the justices of Greenbrier and Kanhaway, to levy a tax on the tithables within their respective counties, sufficient to repair the state road leading from Lewisburg, to the Falls of the Great Kanhaway.

(Passed the 15th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it has been represented to the present General Assembly, That the road leading from the town of Lewisburg in the county of Greenbrier, to the lower falls of the Great Kanhaway, has been found of great utility, in facilitating a communication with the western country, and that the said road leads through an uninhabited country for many miles, and therefore cannot be kept in repair by the ordinary mode prescribed by law, for remedy whereof,

Justices of Greenbrier and Kanhaway to let the repairing the road from Lewisburg to the Kanhaway;

SECT. 2. *Be it therefore enacted by the General Assembly*, That it shall and may be lawful for the justices of the counties of Greenbrier and Kanhaway or a majority of them, and they are hereby directed and required at their April court in each year, during the term of four years, to let to the lowest bidder or bidders in their respective counties, the repairing and keeping in repair so much of the said road as lies in their respective counties, and to levy on the tithables, a sum of money for defraying the expence of repairing the same; *Provided always*, that the sum so to be raised shall not exceed the sum of two shillings for each tithable per annum.

Expence thereof, to be levied on the tithables in the said counties;

When to be collected,

SECT. 3. *And be it further enacted*, That the clerks of the aforesaid counties of Greenbrier and Kanhaway, shall immediately after the letting of the repairing the said road, furnish the sheriff of his county with a compleat list of the tithables within his respective county, and the sums due from each for the purpose aforesaid, who shall thereupon proceed to collect the same, and shall at any time within four months after the delivery of the said list to him as the court of his said county may direct, pay to the undertaker or undertakers the money by him so collected for the purpose aforesaid, deducting therefrom five per centum for collecting. And if the said sheriff shall neglect or refuse to pay unto the said under-

and paid to the undertaker.

taker or undertakers the money directed to be paid him by the court, it shall and may be lawful for the said undertaker or undertakers by motion in the court of the said county, to obtain a judgment against the said sheriff for the same and costs, and thereupon to issue execution against the said sheriff; and the clerk shall indorse on the said execution, that no security shall be taken; *Provided always*, That the said sheriff shall have ten days previous notice of such motion.

Undertaker to give bond and security for his contract.

SECT. 4. *And be it further enacted*, That the courts of the counties aforesaid, shall, on letting the repairing of the said road take bond or bonds with sufficient security, for the faithful performance of the said work within four months, which bonds shall be payable to the court of each county respectively: And if the said undertaker or undertakers shall neglect to repair the said road within the time aforesaid, and to keep the same in repair, it shall and may be lawful for the court of the county wherein such failure shall happen, to sue the said undertaker or undertakers on the bond aforesaid, in any court of record, and the damages recovered against him to apply towards keeping the said road in repair.

CHAP. LVII.

An act to amend an act, intitled "An act for opening and extending the navigation of Patowmack river."

(Passed the 16th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it has been represented to the present General Assembly, by the president and directors of the Patowmack company, that the time allowed by law for making and improving the navigation of Patowmack river, between the Great Falls and Fort Cumberland, in the manner therein mentioned, is found not sufficient to perform the work

Further time allowed for improving the navigation.

SECT. 2. *Be it therefore enacted*, That the further time of three years shall be allowed the said company for making and improving the navigation of the said river above the Great Falls.

Terms on which shares, not yet subscribed for, may be taken up.

Delinquent subscribers to pay interest.

SECT. 3. *And be it further enacted*, That none of the shares not already subscribed for, be hereafter taken up, but on first paying the amount of the previous calls and interest from the time the calls ought to have been complied with, and that delinquent subscribers shall pay interest from the time the money called for ought to have been paid, with the actual expence of notice, and that the same shall be recovered with, and in like manner as the principal.

Places at which the tolls are to be paid.

SECT. 4. *And be it further enacted*, That the place of collection of tolls shall be at or near Hook's Falls, instead of being at or near Payne's, and that one fourth of the tolls made payable at Payne's Falls, shall henceforth be demandable and received at Hook's Falls, and one fourth of the tolls payable at the Great Falls, shall be demandable and received at the Great Falls; and also on goods and produce landed at or near Watts's branch.

Part of the capital to be applied to improving the navigation of the branches of Patowmack.

SECT 5. *And be it further enacted*, That the president and directors of the said company are hereby impowered to apply so much of the capital subscribed and tolls as may arise, as they shall judge necessary towards opening, improving and extending navigation on the branches of Patowmack river above Seneca.

Foreigners may hold certain shares.

SECT. 6. *And be it further enacted*, That it shall and may be lawful for persons not citizens of this Commonwealth, to purchase and hold the non-subscribed shares of the said Patowmack company. *Provided* that the persons so purchasing shall not thereby become citizens of this Commonwealth.

CHAP. LVIII.

An act for killing Crows and Squirrels in certain counties.

(Passed the 16th of December, 1790.)

Tithables in certain counties to produce to a justice a certain number of scalps of

SECT. 1. *BE it enacted by the General Assembly*, That every free male tithable in the counties of Harrison, Monongalia, Ohio, Madison and Woodford, shall produce to a justice of the peace of the said counties respectively on or before the first day of June, in each of the

years one thousand seven hundred and ninety-one and one thousand seven hundred and ninety-two, three scalps of crows and twelve of squirrels, and that every free male tithe in the counties of Gloucester, Middlesex and Essex, shall produce to a justice of the peace of the said counties respectively on or before the said first day of June, in each of the years aforesaid six scalps of crows. crows and squirrels. Tithables in certain counties to produce a certain number of scalps of crows,

SECT. 2. And every free male tithable in the counties of Accomack and Northampton shall produce to a justice of the said counties eight scalps of crows or squirrels, and the scalps so produced, the justice shall cause immediately to be destroyed. and in certain others, of crows or squirrels.

SECT. 3. Every tithable failing to produce the number of scalps as aforesaid, shall pay the sum of three pence for each scalp he shall fail to produce to be levied by the courts at the time of laying the county levy and collected and accounted for in like manner as the said levy, and paid to those persons who shall produce to a justice as aforesaid a greater number of scalps than are required by this act in proportion to such excess. Penalty on those failing to produce them; How to be collected and applied.

SECT. 4. Each justice shall keep a fair and alphabetical list of the names of the persons and number of scalps produced to him and return the same to the clerks of the respective courts on or before the first day of July in each of the aforesaid years, and the clerks shall from thence make up a list of the names and number of scalps produced by each tithable, and lay the same before their respective courts for their guide and direction in levying the penalties imposed by this act. Justices to keep a list of persons producing scalps; to be laid before the county court.

CHAP. LIX.

An act authorizing and requiring the trustees of the Protestant Episcopal Church to sell the Glebe Lands in the county of Hardy, and for other purposes.

(Passed the 11th of December, 1790.)

SECT. 1. WHEREAS it is represented to the present General Assembly, That by the division of the county of Hampshire, the glebe lands thereof have fallen into the county of Hardy: Preamble.

The parish of Hampshire divided into two parishes.

SECT. 2. *Be it therefore enacted by the General Assembly*, That from and after the passing of this act, the parish of Hampshire shall be divided and form two separate and distinct parishes: The county of Hampshire shall be one parish, and known by the name of Hampshire parish, and the county of Hardy shall be one other parish, and known by the name of Hardy parish.

Trustees thereof, when to be appointed.

SECT. 3. *And be it further enacted*, That the members of the Protestant Episcopal church in each of the said parishes shall assemble on Easter Monday next, or as soon after as convenient at the courthouses of their respective counties, and then and there elect trustees for the said parishes agreeably to the ordinances of the said church.

A moiety of the glebe land to be sold, and the money applied to the purchase of a glebe for Hampshire parish;

SECT. 4. *And be it further enacted*, That the trustees of the said parishes of Hampshire and Hardy, or a majority of them, shall immediately after such election, or as soon after as may be, proceed to sell one moiety of the glebe lands above mentioned, in value as near as can be ascertained, in such manner as they may deem most eligible, and the money arising from the sale thereof, with a full moiety of the rents due thereon, shall be applied by the trustees of the parish of Hampshire, towards purchasing a glebe therein.

Trustees of Hardy parish authorized to sell the other moiety and purchase another glebe.

SECT. 5. *And be it further enacted*, That the trustees of the said church to be appointed by this act in the parish of Hardy, are hereby authorised and empowered to sell the other moiety of the said glebe lands, if to them it shall seem expedient, and apply the money arising from the sale thereof to the purchase of a more convenient glebe for the use of the said parish. And if the trustees before mentioned should disagree in the value of the said glebe land after a division thereof, in that case the trustees shall proceed to sell the said glebe lands in moieties, and the money arising from such sales to be equally divided between the parishes of Hampshire and Hardy; and the trustees shall respectively lay out the money in the purchase of a glebe in each of the parishes aforesaid.

Duty of the trustees if they should disagree in opinion respecting the value of the glebe land.

Trustees of Hardy parish to collect the money due for the rent of the glebe.

SECT. 6. *And be it further enacted*, That the trustees which may be elected for the parish of Hardy, shall without delay take all legal means to collect and recover all sums of money or tobacco which now are, or hereafter may become due for the rents of the said glebe.

SECT. 7. And the trustees to be elected for the parishes of Hardy and Hampshire shall respectively perform the duties required of them by this act respecting the sale of the said glebe, or a part thereof, and the purchase of another glebe within two years from the passing of this act under the penalty of one hundred pounds on the trustees of each parish so failing, to be recovered by action of debt in any court of this Commonwealth, one moiety thereof to the use of the parish in which such failure or neglect of duty may happen, the other moiety to any person who may sue for the same. Within what time the trustees are to execute the duties enjoined by this act.

CHAP. LX.

An act concerning certain regulations in the town of Lexington and county of Fayette.

(Passed the 15th of November, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for the freeholders, housekeepers and free male inhabitants of the town of Lexington in the county of Fayette, and those within one mile of the courthouse in the said town, aged twenty-one years, other than free negroes or mulattoes, who have resided therein for the space of six months, and who possess in their own right within the said town and limits aforesaid, moveable property of the value of twenty-five pounds, to elect and choose seven trustees; which election shall be conducted by the sheriff of the said county and held at the courthouse on the second Monday in May next, of which previous notice shall be given by advertisement, at the door of the said courthouse, on the court day next preceding the said election. Trustees to be elected, for the town of Lexington, in Kentuckey. When and how.

SECT. 2. The sheriff shall make return of the persons elected, to the clerk of the court, to be by him recorded, and moreover return a fair copy of the poll, by him taken, to the person having the greater number of votes, to be recorded with the other proceedings of the said trustees in books to be by them kept for that purpose. Return of persons elected to be made by the sheriff.

SECT. 3. The said trustees and their successors, or a majority of them, shall have power to erect and re- Powers of the trustees.

pair a market-house in the said town, to appoint a clerk of the market, to regulate and repair the streets and highways in the said town and limits aforesaid, to remove nuisances and obstructions therein, and to impose taxes not exceeding one hundred pounds annually on the tithables and property, real and personal within the said town and limits aforesaid, for the purpose of carrying into execution all or any of the powers hereby given them; to make provision and regulations for the collecting and accounting for the taxes so raised, by appointing a collector and directing distress to be made for delinquencies or by any other ways or means, and to make such ordinances and regulations, not contrary to the laws and constitution of this Commonwealth, as shall by them or a majority of them, be thought necessary for carrying this act into effect.

Vacancies, how to be supplied.

SECT. 4. Vacancies by death or otherwise of the said trustees or any of them, shall be supplied by elections to be made in like manner as herein before directed, on a day to be appointed by the remaining trustees, whereof return shall be made of the person elected, with a fair copy of the poll to the said trustees to be recorded.

Qualification of the trustees;

SECT. 5. No person shall be capable of being elected a trustee, who is not a freeholder and inhabitant of the said town, or a freeholder and resident within the limits aforesaid, at the time of election.

When they shall be disqualified.

SECT. 6. Whensoever a trustee shall cease to be a freeholder, inhabitant or resident as aforesaid, he shall thenceforth be considered as disqualified, and another shall be elected in his stead.

Former trustees displaced.

SECT. 7. *And be it further enacted*, That from and after the appointment of trustees in consequence of this act, the former trustees appointed under an act of Assembly intitled "An act to establish a town at the court-house in the county of Fayette," shall cease to act, and all the property, papers and records belonging to them as trustees, shall become vested in the trustees appointed by virtue of this act, who shall exercise the same powers and authorities, as are now, or heretofore have been vested in, or exercised by the trustees under the said recited act.

CHAP. LXI.

An act to amend the act, intitled "An act for clearing Roanoke river."

(Passed the 16th of December, 1790.)

Preamble.

SECT. 1. WHEREAS extending the navigation of the river Roanoke from the Falls, upwards to the fork of Dan and Staunton rivers, and up the said rivers Staunton and Dan to the heads thereof, will be of great benefit and advantage, as well to the inhabitants of the interior parts of this state, as to the public in general, and it is represented to this present General Assembly, that many persons are willing and desirous to subscribe and contribute thereto; For the encouragement of such an useful and laudable undertaking,

Trustees appointed for clearing Roanoke, Dan and Staunton rivers;

SECT. 2. *Be it enacted by the present General Assembly*, That Henry E. Coleman, Richard Kennon, Samuel Hopkins, Samuel Goode, George Carrington, Thomas Watkins, Clement Carrington, William Terry, William Morton, John Wilson, John Early, Matthew Clay, Meade Anderson, George Hairston, and Archibald Hughes, gentlemen, be and they are hereby nominated, constituted and appointed trustees for clearing so much of the said rivers as shall be within this state, and they are hereby respectively authorized and empowered to take and receive subscriptions for that purpose; and if any person or persons shall neglect, fail or refuse to pay the several sums of money respectively subscribed, for the purpose of this act, it shall and may be lawful for the trustees respectively, or undertaker, to recover the same of the person or persons so neglecting, failing or refusing, of his, her or their heirs, executors or administrators by motion in any court of record within this Commonwealth, on giving reasonable notice thereof.

Duty of the trustees.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the said trustees respectively, or any five of them, shall have full power and authority to contract and agree with any person or persons for clearing so much of the said rivers as shall be within this state, in such manner as to the said trustees shall seem most proper, and to remove all hedges, rocks or stops, which the said trustees shall think may in any wise obstruct the said navigation.

Receivers to be appointed;

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said trustees respectively, or any five of them, from time to time, as often as they shall see occasion, shall and may nominate and appoint one or more of their number, to be receiver or receivers of all monies that shall be subscribed for the purpose of this act; who shall in the court of the county where he or they shall reside, give bond with sufficient security in a reasonable penalty to this Commonwealth, with a condition that he or they, his or their heirs, executors or administrators, at all times when required, shall and will truly and faithfully account with the said trustees or undertaker, for all monies which shall come to the hands of such receiver or receivers for the purpose of this act, and pay the same to such person or persons, as the said trustees or any five of those who agree to act, shall order and direct.

Vacancies in the trustees, how to be supplied.

SECT. 5. *And be it further enacted*, That in case of the death, resignation or removal out of the country, or the legal disability of any one or more of the said trustees, it shall and may be lawful for the surviving or remaining trustees, or any five of them, from time to time, to elect and choose so many persons in the room of those dead, resigned, removed or disabled, as shall make up the number thirteen, which trustees so chosen, shall be vested with the same power and authority as any others in this act particularly named.

SECT. 6. *And be it further enacted*, That so much of every act or acts as comes within the purview of this act, shall be and is hereby repealed.

CHAP. LXII.

An act giving Joseph Wilsey and others the exclusive privilege of conveying persons in stage carriages, and for other purposes.

(Passed the 21st of December, 1790.)

Preamble.

SECT. 1. WHEREAS sundry inhabitants of the counties of Accomack and Northampton have petitioned the present General Assembly, That Joseph Wilsey of North-

Carolina, James Rosckrans of New-York, and Robert Twiford of Accomack, may have the exclusive privilege of running a stage waggon from Northampton courthouse to the line of Maryland near Swansey-gut bridge, and also the privilege of transporting passengers across Chesapeak Bay:

Exclusive privilege of running a stage between certain places granted to certain persons.

SECT. 2. *Be it therefore enacted*, That the said Joseph Wilsey, James Rosckrans and Robert Twiford, shall have the sole and exclusive privilege of conveying for hire, persons in stage carriages between Northampton courthouse and the line of Maryland near Swansey-gut bridge for and during the term of seven years, from the passing of this act, and shall and may demand and take for each passenger three pence per mile, and three pence per mile for every one hundred and fifty pounds of baggage, exceeding fourteen pounds conveyed in any of their stage waggons.

Rates.

Penalty for demanding more than the legal rates.

SECT. 3 If the said Wilsey, Rosckrans and Twiford by themselves or any other, shall demand or receive any greater rates than are hereby allowed, they shall forfeit and pay double the sum so demanded or received to be recovered with costs by summons and petition in either of the county courts of Accomack or Northampton, and if the sum be under twenty-five shillings, before any justice of the peace, in either of the said counties by warrant to the use of the party injured in both cases.

Penalty on any other person running a stage between the said places.

SECT. 4. If any person or persons other than the said Wilsey, Rosckrans and Twiford their agents or servants, shall establish or run any stage carriages between either of the said places, or demand or take directly or indirectly any fee or reward whatsoever, for conveying any person or persons or their baggage in a stage carriage or carriages between either of the places aforesaid, he or they so offending shall forfeit and pay for every stage established or run, the sum of five hundred pounds, and for every person or one hundred and fifty pounds of baggage by him or them so conveyed fifty pounds, to be recovered with costs by action of debt, bill, plaint or information in either of the courts aforesaid to the use of the said Wilsey, Rosckrans and Twiford.

Proprietors authorized to establish a packet boat for conveying their passen-

SECT. 5. *And be it further enacted*, That the aforesaid Joseph Wilsey, James Rosckrans and Robert Twiford shall have the right of establishing one or more packet boats for the purpose of conveying their stage passengers across the Chesapeak Bay from Cheritons

gers across Chesapeak;

river or Hungars in the county of Northampton to the towns of Norfolk and Portsmouth, and from the said towns to the said ports of Cheritons or Hungars, and may demand and receive for each passenger fifteen shillings, and fifteen shillings for each horse.

To enter into bond with security for keeping up the line of stages.

SECT. 6. *Provided*, The said Joseph Wilsey, James Rosckrans or Robert Twiford shall on or before the first day of July next enter into bond with sufficient security in the county court of Accomack or Northampton in the sum of one thousand pounds, payable to the governor and his successors for the use of the Commonwealth, with condition for the due and faithful keeping up the said line of stages for one year after their first running, and before the expiration of each year, enter into bond in the like sum and on the like condition for the due and faithful keeping up the said line of stages for one year more, and shall begin to run their said stage carriages on or before the first day of January, one thousand seven hundred and ninety-two.

When they shall begin to run their stages.

Privilege of keeping a packet boat to continue only while they keep up the line of stages.

SECT. 7. On the said Joseph Wilsey, James Rosckrans and Robert Twiford, ceasing to keep up the said line of stages, their privilege to keep a packet boat shall cease and determine.

Proprietor of Hungar's ferry to have the exclusive privilege of conveying the said stage passengers across the Chesapeak on certain conditions.

SECT. 8. *Provided always*, That if the proprietor of the ferry at Hungars, established by law, will undertake to transport stage passengers and horses, across Chesapeak to the towns of Norfolk and Portsmouth, and from thence to the said ferry at Hungars on the terms prescribed in this act, and subject to such regulations as to time, as will correspond with the regulations established by the proprietors of the line of stages, she or he, giving bond in the sum of five hundred pounds on or before the first day of July next, with security to be approved by the county court of Northampton, conditioned for the faithful execution of the duty of a ferry or packet boat attending the said line of stages, shall have and enjoy the exclusive privilege of transporting the same, otherwise the said Joseph Wilsey, James Rosckrans and Robert Twiford, shall be permitted to establish a ferry at Cheritons, as directed by this act.

Towns and Woolfolk authorized to convey their stage passengers across

SECT. 9. *And be it further enacted*, That Richard Towns and John Woolfolk, shall have a right to convey their passengers travelling from the southward to the northward, across the said bay from the town of Ports-

mouth to Hungars, when the Hungars boat is not there to take them, and may receive the same ferriage as is herein before established. the Chesapeak, when the Hungar's ferry boat is not ready to ceive them.

CHAP. LXIII.

An act to increase the number and extend the powers of the trustees of the town of Staunton.

(Passed the 28th of December, 1790.)

Six additional trustees to be elected.

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for the freeholders, housekeepers and free male inhabitants of the town of Staunton in the county of Augusta aged twenty-one years, other than free negroes or mulattoes, who have resided therein for the space of six months and who possess in their own right within the said town, moveable property of the value of twenty pounds to elect and choose six trustees in addition to the number heretofore allowed by law, which election shall be conducted by the sheriff of the said county and held at the courthouse on the first Tuesday in March or April next, of which previous notice shall be given by advertisement at the door of the courthouse ten days preceding such election: The trustees so elected shall be under the same regulations and liable to the same penalties as the trustees now in office.

The sheriff to make a return of the persons elected.

SECT. 2. The sheriff shall make return of the persons elected to the clerk of the court to be by him recorded, and moreover return a fair copy of the poll by him taken to the persons having the greatest number of votes to be recorded with the other proceedings of the said trustees in books to be by them kept for that purpose.

Powers of the trustees.

SECT. 3. The said trustees so elected with those already in office, and their successors or a majority of them shall have power to erect and repair a market-house on the public ground in the said town; to appoint a clerk of the market; to regulate and repair the streets and highways of the same; to remove nuisances and obstructions therein; to keep in repair the canals already made by

legal authority, which convey the water to and through the said town, and open and keep in repair other canals, as they or a majority of them shall think necessary and useful for the inhabitants thereof, and to impose taxes not exceeding forty pounds annually, for and during the term of two years from the passage of this act, and from and after the expiration of the said term, the sum of twenty-five pounds annually, on the tithables and property real and personal within the said town, on all tithables who who have no taxable property, a tax not exceeding five shillings per tithable annually, and on the other inhabitants and freeholders in proportion to their taxable property respectively, for the purpose of carrying into execution all or any of the powers hereby given them; to make provision and regulations for the collecting and accounting for the taxes so raised by appointing a collector and directing distress to be made for delinquencies or by any other ways or means, and to make such ordinances and regulations not contrary to the laws and constitution of this Commonwealth as shall by them or a majority of them be thought necessary for carrying this act into effect.

How they are to proceed when any canal is to be cut through the town.

Sect. 4. *Provided always*, That before the trustees shall in future make or cause to be made any canal in the said town of Staunton, which may injure any individual or individuals through whose lots the same may be designed to pass, they shall, provided the individual affected by the said canal or his agent or attorney shall require the same, or provided the proprietor of such lot or lots shall be an infant, feme covert, or non compos mentis, sue out from the clerk's office for the county of Augusta, a writ in the nature of a writ of ad quod damnum to be directed to the sheriff of the said county, commanding him on a certain day therein to be named, of which day the party to be affected as aforesaid, his agent or attorney shall have five days previous notice at the least, to impannel twelve disinterested persons, six of whom shall be inhabitants of the said town of Staunton and the other six freeholders of the said county of Augusta and most convenient to the said town, who being first sworn to enquire whether any, and if any, what damages will be sustained by the individual or individuals through whose lot or lots such canal shall be proposed to be made, the said sheriff on the day appointed in the said writ shall with the jurors aforesaid

proceed to make the said enquiry and shall report the same under the hands and seals, of the jurors to the next court to be held for the said county of Augusta where the same shall be received and recorded. And in like manner where any canal hath already been made the person or persons who are affected thereby, may sue out a writ in the nature of a writ of ad quod damnum, to be directed and executed as is before mentioned, and the jury summoned in consequence of such writ, shall enquire of what damage the continuance of such canal will be to the person or persons through whose lands the same may pass and the same shall be reported to the court for the county of Augusta and recorded as is before directed; and in either of the above cases it shall be discretional with the said trustees for the town of Staunton, to proceed to make the canal proposed to be made, or to continue any canal which may be already made, or not, as they shall find it expedient.

Present trustees when to be displaced;

SECT 5. The trustees of the said town shall be displaced on the first Tuesday in March one thousand seven hundred and ninety-four, and on the same day in every third year thereafter, and the vacancies supplied by new elections on the same or next succeeding day respectively under the like rules and regulations as herein before prescribed; intermediate vacancies by death or otherwise shall be supplied in like manner on a day to be appointed by the remaining trustees.

Their successors, when to be elected.

Qualification of the trustees;

SECT. 6. No person shall be capable of being elected a trustee who is not a freeholder and an inhabitant of the said town at the time of election.

When disqualified.

SECT. 7. Whensoever a trustee shall cease to be a freeholder and an inhabitant as aforesaid, he shall thenceforth be considered as disqualified and another shall be elected in his stead.

Penalty on persons for stopping or altering the canals.

SECT. 8. *And be it further enacted*, That if any person shall stop or alter the present canals or those that may hereafter be made for conveying the water to and through the said town, he shall, for every offence forfeit and pay the sum of two pounds, to be recovered on motion of the trustees in the county court of Augusta with costs, upon giving the party ten days previous notice of such motion, and the money so recovered shall be applied by the trustees to the like purposes as the taxes to be imposed in virtue of this act.

Certain mills not to be affected by any regulations of the trustees.

SECT. 9. *Provided always*, That nothing herein contained shall be construed to authorize or empower the said trustees by any regulations whatsoever, to injure or affect the mill of Michael Fackler, or any mill that may hereafter be built within the said town.

CHAP. LXIV.

An act to grant certain privileges to the cities of Richmond and Williamsburg, and to the borough of Norfolk.

(Passed the 20th of December, 1790.)

Court of Hustings of Richmond authorized to try slaves;

SECT. 1. *BE it enacted by the General Assembly*, That the mayor, recorder and aldermen of the city of Richmond, or any five of them, the mayor, recorder or eldest alderman being one, may hold a court for the trial of slaves in like manner and subject to the same laws, rules and regulations as the justices of the county courts may now do: *Provided* That their jurisdiction be limited to offences committed within the jurisdiction of the court of Hustings for the said city.

And to impannel grand juries.

SECT. 2. And it shall be lawful for the serjeant of the said city, and he is hereby required previous to the courts in March, May, August and November, to summon a grand jury of the freeholders within the said city, to meet at these several courts, which grand juries shall, respecting crimes and offences done, committed or suffered within the limits aforesaid, possess and exercise the same powers, and be subject to the same penalties as grand jurors in the county courts.

Court day.

SECT. 3. The court of Hustings for the said city shall sit on the second Monday in every month:

Militia to be formed into a distinct regiment.

SECT. 4. *And be it further enacted*, That the inhabitants of and residents in the said city, subject to militia duty, shall be formed into a distinct regiment, and shall not be obliged to attend company or regimental musters except in or near the said city; but shall remain under the lieutenant or commanding officer of the militia of the county of Henrico, and be subject to and governed by

the several laws respecting the militia, in like manner as the militia of the county of Henrico.

Courts of hustings of Williamsburg and Norfolk to impannel grand juries.

SECT. 5. *And be it further enacted*, That the courts of hustings of the city of Williamsburg and borough of Norfolk, at their respective quarterly sessions, shall have the same power and authority to impannel grand juries as is by this act given to the court of hustings of the city of Richmond.

Inhabitants of Norfolk borough not to act as grand jurymen in Norfolk county.

SECT. 6. *And be it further enacted*, That the inhabitants of the borough of Norfolk, shall not be grand jurymen for the county of Norfolk.

SECT. 7. So much of every act as comes within the purview of this act shall be and the same is hereby repealed.

CHAP. LXV.

An act directing the purchase of a Bell for the Capitol, and for other purposes.

(Passed the 16th of December, 1790.)

Directors of the public buildings to procure a bell,

SECT. 1. *BE it enacted by the General Assembly*, That the directors of the public buildings shall be, and they are hereby authorized and empowered to purchase at the public expence, a fit and sufficient bell for the use of the capitol.

and stoves for the capitol.

SECT. 2. *And be it further enacted*, That the said directors shall likewise provide as many stoves of cast iron as may be necessary for the use of the house of delegates, the senate room, and the court room, and cause the same to be set up, at the public expence, in such part of the house of delegates, the senate room, and court room in the capitol, as to them may appear most convenient. And that the directors of the public buildings shall also cause the following alteration to be made in the senate room, to wit: Open a door of entrance from the room adjoining the senate room, opposite to the fire place, and to lay off a gallery on each side of the said door to be separate from the room by a decent balustrade.

Alterations to be made in the senate room.

The auditor to grant warrants for the amount of the expences.

SECT. 3. The auditor of public accounts shall issue his warrant to the said directors for the amount of such purchase money, which shall be paid by the treasurer out of any public money in his hands.

CHAP. LXVI.

An act to authorize and direct the commanding officers of certain counties within the district of Kentuckey, to order out guards for certain purposes.

(Passed the 27th of November, 1790.)

Preamble.

SECT. 1. WHEREAS the intercourse between this country and Kentuckey is much interrupted by the depredations and murders committed by the hostile tribes of Indians who live contiguous to the road leading through the wilderness.

Guards to be furnished by certain counties to protect travellers through the wilderness.

SECT. 2. *Be it enacted*, That the commanding officers of the counties of Mercer, Lincoln and Madison, shall be and they are hereby authorized and directed to order out of their respective counties alternately in every year, thirty effective men, in the months of October and November, to rendezvous on the road leading through the wilderness, at the east foot of Cumberland mountain, on the fifteenth day of October, and on the tenth day of November: That the said guard shall be commanded by such person as the commanding officer of the county from which they are taken shall think fit to appoint, whose duty it shall be to guard and protect such company through the wilderness, as may be in readiness at the place and on the days abovementioned. The guards shall be called out and perform the duty herein required, alternately in the order in which the counties are herein beforenamed in this act.

To provide themselves with arms, provisions, &c.

SECT. 3. *And be it further enacted*, That the said officer appointed as aforesaid, and the guard under him ordered out, shall furnish themselves with the necessary arms, ammunition and provision for the purposes aforesaid.

Their pay;

The said officer shall receive for his services six shillings per day, and each of the guard four shillings per

day: Their several accounts shall be liquidated and adjusted by the commanding officer of the county from which they were ordered, who shall transmit on oath to the receiver of the taxes for the said district, a pay roll specifying particularly the names of those belonging to each company, and the time of their entering into and leaving the service: he shall also grant to each person a certificate expressing the number of days he served, the time when the service was performed, and the allowance for such service, which said certificate granted as aforesaid, shall be receivable by the sheriff of the said county in discharge of the public taxes due from the said county, and the same shall be received from him in the settlement of his accounts with the receiver, who shall be allowed the same in the settlement of his accounts in like manner as he is by law allowed for other certificates receivable for the taxes of the said district.

Certificates therefor receivable in discharge of taxes.

CHAP. LXVII.

An act for opening the navigation of Blackwater river, from Little Town on the said river, to Broadwater bridge.

(Passed the 16th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented that the opening the navigation of Blackwater river, from Little Town on the said river, as high as Broadwater bridge will be of great utility.

Surveyors of the river to be appointed;

SECT. 2. *Be it therefore enacted by the General Assembly*, That the courts of the counties of Southampton and Isle of Wight, shall and they are hereby respectively empowered and required to appoint so many surveyors as they may think necessary, and allot to each his respective precinct, whose duty it shall be to superintend and see that all obstructions which in any manner injure the navigation of the said river, within his precinct, be removed from time to time as such obstructions shall happen.

Their duty;

Persons to be appointed to labour in clearing the river;

Penalty on those refusing to labour;

SECT. 3. The courts of the said counties shall respectively appoint so many male labouring persons, as they may judge most convenient, to work in clearing the said river: every person so appointed, who, when required by the surveyor, placed over him, shall without legal cause or disability, fail to attend, with proper tools for clearing the said river, or shall refuse to work when there, or find some other person equally able to work in his room, shall pay the sum of seven shillings and sixpence for every days offence, if he be a freeman of full age, if an infant, then to be paid by his parent, guardian or master, and if a slave or servant, then by his overseer if he be under one, or otherwise by his master or mistress.

On a surveyor for neglect of duty;

SECT. 4. Every surveyor failing to do his duty as required by this act, shall forfeit and pay the sum of five pounds.

On persons felling trees into the river.

SECT. 5. If any landholder on the said river, being resident thereon, if not, the tenant or overseer shall suffer any tree to be felled from his land, or the land of which he is a tenant, or resides on as an overseer into the said river, and therein to remain the space of twenty-four hours, every such landholder, tenant or overseer shall forfeit and pay the sum of eighteen shillings.

Persons working on the river exempted from working on roads.

SECT. 6. The persons appointed to clear the said river shall be exempted from working on roads.

Penalties, how to be recovered and applied.

SECT. 7. All the penalties in this act shall be one moiety to the informer, and the other to the use of that county in which the penalty is incurred, recoverable with costs on warrant, or petition and summons as the case may be.

CHAP. LXVIII.

An act for continuing the allowance of Pensions to certain persons.

(Passed the 11th of December, 1790.)

Certain officers to receive the pensions heretofore granted to

BE it enacted by the General Assembly, That William Barret, Francis Whiting, John Green, Samuel Selden, William M'Guire, George Hite, Willis Wilson and Thomas Fenn shall continue to receive their respective

pensions heretofore allowed them under the laws of this Commonwealth, in the same manner as if the law referring them to the Congress of the United States had never been made. them by the state.

CHAP. LXIX.

An act concerning Joseph Hodges.

(Passed the 11th of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That Joseph Hodges, who in a skirmish which happened during the late war, between a party of British and American troops, received a wound from a musket ball in his leg, which has disabled him from supporting himself by labour, shall henceforth be placed on the list of pensioners, and be allowed the sum of twelve pounds per annum. Joseph Hodges allowed a pension during life;

SECT. 2. *And be it further enacted*, That the auditor of public accounts shall, and he is hereby required, to issue to the said Joseph Hodges on application in person, or by attorney, a warrant on the treasury for the sum of twelve pounds, payable out of the contingent fund for his present relief. And a certain sum of money for his present relief.

CHAP. LXX.

An act making provision for Thomas Price, a wounded soldier.

(Passed the 16th of December, 1790.)

SECT. 1. WHEREAS it has been represented to this present General Assembly, That a certain Thomas Price of the county of Randolph served as a soldier in an expedition against the Indians undertaken during the administration of governor Dunmore, and by reason of a wound he received at the battle of the Point, is rendered unable to support himself by labour. Preamble

Thomas Price allowed a sum of money for his present relief;

SECT. 2. *Be it enacted by the General Assembly*, That the auditor of public accounts, on application by the said Thomas Price or his attorney legally authorized, shall issue a warrant on the treasury for the sum of fifteen pounds, which warrant shall refer to this act, and express the consideration whereon it was granted, and be made payable by the treasurer out of the contingent fund.

And a pension during life.

SECT. 3. *And be it further enacted*, That the said Thomas Price shall be entitled on application to the auditor in manner and form aforesaid, to receive half yearly, that is to say, on the first day of March and on the first day of September in each succeeding year, while he lives, a like warrant for the sum of seven pounds ten shillings, payable as is herein before directed.

CHAP. LXXI.

An act making an allowance to Thomas Nicolson for printing the Journals of the Senate, and for regulating the salary of the public gaoler.

(Passed the 29th of December, 1790.)

A sum of money to be paid to Thomas Nicolson.

SECT. 1. *BE it enacted*, That Thomas Nicolson shall be and he is hereby allowed thirty-five pounds for printing the journals of the Senate this session, for which sum the auditor shall issue his warrant which shall be paid by the treasurer out of any public money in the treasury.

Salary of the public gaoler.

SECT. 2. *And be it further enacted*, That the salary allowed the keeper of the public gaol shall in future be twenty five pounds per annum.

Commencement of the act.

SECT 3 This act shall commence and be in force on the first day of January one thousand seven hundred and ninety-one.

CHAP. LXXII.

An act for placing Mary Boush on the pension list.

(Passed the 24th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented to the General Assembly, that Goodrich Boush entered into the service of his country at the first establishment of a naval armament; that he was appointed captain of an armed vessel belonging to this state, and continued in the service of the same, until his death, leaving Mary Boush his widow and four young children in distressed circumstances; that no relief whatever has been given to the said Mary Boush in conformity to an act of Assembly in that case made and provided.

Mary Boush allowed a certain sum for her present relief;

And a pension for seven years.

SECT. 2. *Be it therefore enacted*, That the auditor of public accounts shall be, and he is hereby directed to issue a warrant or warrants on the treasury for three years half-pay of a captain in the navy of this state, as established by law, to the said Mary Boush for her immediate relief, and that the executive be authorized and directed to place her on the pension list, with an allowance of half-pay annually, for the term of seven years.

CHAP. LXXIII.

An act respecting Jacob Price and Abraham Nettles.

(Passed the 20th of December, 1790.)

Preamble.

SECT. 1. WHEREAS Jacob Price and Abraham Nettles now residing in the county of Greenbrier, served as soldiers in the Virginia line on continental establishment during the late war, and by reason of disabilities received in the service, were placed on the list of pensioners; and whereas under a law of this Commonwealth, passed in the year one thousand seven hundred and eighty-five, the several county courts were required to appoint

surgeons to inspect the disabilities of the pensioners within their counties, and report the same to the executive, but no steps being taken by the court of the county aforesaid, those of the said Price and Nettles were not reported according to the directions of the said law, and by reason thereof they were discontinued and stricken from off the said list by the executive; and it now appearing to the General Assembly, that the disabilities of the said Price and Nettles are such as to warrant the propriety of reinstating them as pensioners, and of restoring the several and respective pensions, whereof in manner aforesaid they have been deprived.

Warrants to be granted to Jacob Price and Abraham Nettles for arrears of their pensions.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the auditor of public accounts shall and he is hereby directed to issue on application by the said Price and Nettles in person, or by attorney, a warrant or warrants, for the amount of the pensions formerly allowed them, from the date of the discontinuance aforesaid, to the fourth day of March one thousand seven hundred and eighty-nine. And the executive are hereby requested and required to represent the cases of the said Jacob Price and Abraham Nettles to the officer of the general government, having cognizance in such cases, in order that they may be paid their pensions from the said fourth day of March, one thousand seven hundred and eighty-nine.

The executive to represent their situation to the proper officer of the United States.

CHAP. LXXIV.

An act authorising the auditor to issue to Joseph Calvert a loan-office certificate for property destroyed in the borough of Norfolk.

(Passed the 21st of December, 1790.)

Preamble.

SECT. 1. WHEREAS by the report of the commissioners appointed to ascertain the losses sustained by the inhabitants of the borough of Norfolk, in consequence of the destruction of the said town in the year one thousand seven hundred and seventy-six, the property of Joseph Calvert was postponed for further proof: And it has been represented to the present General Assembly, that the property of the said Joseph Calvert was destroyed by the troops of this state.

SECT. 2. *Be it enacted*, That the auditor of public accounts shall, and he is hereby directed to issue to the said Joseph Calvert, his executors or administrators, a loan-office certificate for the sum of one hundred and twenty pounds, with warrants for interest on the same, in like manner as has been heretofore issued for property destroyed in the borough of Norfolk. Auditor to issue a loan-office certificate to Joseph Calvert.

CHAP. LXXV.

An act for restoring a sum of money paid into the public treasury on account of the sale of the sloop the Philadelphia Packet and her cargo.

(Passed the 16th of December, 1790.)

SECT. 1. WHEREAS from a sentence of condemnation passed in the court of admiralty of this Commonwealth against the sloop the Philadelphia Packet, the said sloop with her cargo were sold, and one moiety thereof amounting to the sum of three hundred and forty pounds five shillings and eleven pence paid into the public treasury; from which sentence an appeal was granted to the court of appeals, and by a decree of that court, the same was reversed and annulled and the amount of such sales ordered to be restored: Preamble.

SECT. 2. *Be it therefore enacted by the General Assembly*, That it shall be lawful for the treasurer of this Commonwealth and he is hereby authorized and required upon receipt of this act, to restore to such person or persons entitled to receive the same under the decree of the high court of appeals, the moiety of the said sloop the Philadelphia Packet and her cargo, so paid into the treasury, together with interest thereupon to be computed after the rate of five per centum per annum from the time the same was paid into the treasury. The treasurer to pay a sum of money to the owners of the Philadelphia Packet.

CHAP. LXXVI.

An act for placing Richard Marshall and Robert Ferguson on the list of pensioners.

(Passed the 24th of December, 1790.)

Richard Marshall and Robert Ferguson allowed certain sums of money for their present relief;

SECT. 1. *BE it enacted by the General Assembly*, That Richard Marshall of the county of Albemarle, who served as a soldier in the sixth Virginia regiment, and by reason of a wound he received in the action at Campden, and Robert Ferguson of the county of Richmond, late a dragoon inlisted for the war in the Partizan legion, wounded in the campaign of one thousand seven hundred and eighty-one, have been rendered unable to support themselves by labour, shall be allowed the sum of twelve pounds each, in advance, for compensation of their claims since the conclusion of the war: The auditor of public accounts on application to him made by the said Richard Marshall and Robert Ferguson in person or by attorney, shall issue warrants for the same, payable out of the aggregate fund.

And to be placed on the list of pensioners.

SECT. 2. *And be it further enacted*, That the said Richard Marshall and Robert Ferguson shall be placed on the list of pensioners, and shall each of them have and receive during life the annual sum of twelve pounds.

CHAP. LXXVII.

An act concerning William Courtney.

(Passed the 14th of December, 1790.)

Preamble.

SECT. 1. WHEREAS William Courtney served as a soldier in the Virginia line during the late war, and received at the action at James-Town a wound, which has rendered him unable to support himself by labour.

William Courtney allowed a cer-

SECT. 2. *Be it enacted by the General Assembly*, That the auditor of public accounts, shall and he is hereby directed, on application to him made by the said William

Courtney in person or by attorney, to issue a warrant on the treasury for the sum of twelve pounds payable out of the contingent fund, for his present relief. tain sum for his present relief;

SECT. 3. *And be it further enacted*, That the said William Courtney shall be allowed the sum of twelve pounds per annum, for and during the remainder of his natural life. And a pension during life.

CHAP. LXXVIII.

An act granting a sum of money to William Shannon and others.

(Passed the 28th of December, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall issue certificates upon application to him made by the payees or their legal representatives, of those bills which have been drawn in their favour by William Shannon late quarter master general to the Illinois regiment on general George Rogers Clarke and on the treasurer of this Commonwealth which have been admitted in the said Shannon's account as settled by the executive, on receiving from the executive their directions so to do; and to the said William Shannon the sum of two thousand and twenty-six pounds six shillings and one penny farthing which appears to be due him by the account aforesaid. Certificates to be issued to the payees of certain bills drawn by William Shannon. And to said Shannon for the balance due to him.

SECT. 2. There shall be issued by the auditor in favour of James Maxwell, warrants for the sum of four hundred and thirty-four pounds sixteen shillings and four pence half-penny, for the balance due the estate of Daniel Maxwell deceased on a judgment obtained against Andrew Sprowl, whose estate was, during the late war, confiscated and sold, and the money arising therefrom paid into the public treasury Warrants to be issued to James Maxwell for a debt due from Andrew Sprowle;

SECT. 3. *And be it further enacted*, That the auditor of public accounts shall issue warrants in favour of Thomas Newton the executor of Robert Tucker deceased, for the amount of a bond given by Robert Carter Nicholas, treasurer of this Commonwealth, to the said Thomas Newton executor as aforesaid. And to Thomas Newton for a sum of money due from the state,

Payable out of the aggregate fund. When this act commences.

SECT. 4. The warrants to be issued by virtue of this act shall be charged on the aggregate fund. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXIX.

An act for restoring a sum of money to certain persons.

(Passed the 29th of November, 1790.)

Preamble.

SECT. 1. WHEREAS from a sentence of condemnation passed in the court of admiralty of this Commonwealth against the ship George, whereof Robert Scott was master, the said ship with her cargo were sold, and one moiety thereof amounting to the sum of six hundred and seventy-six pounds ten shillings and eleven pence paid into the public treasury; from which sentence an appeal was granted to the court of appeals, and by a decree of that court, the same was reversed and annulled, and the amount of such sales ordered to be restored.

A sum of money to be paid by the treasurer to the owners of the ship George.

SECT. 2. *Be it therefore enacted by the General Assembly*, That it shall and may be lawful for the treasurer of this Commonwealth and he is hereby authorized and required upon receipt of this act, to restore to such person or persons intitled to receive the same under the decree of the high court of appeals the moiety of the sales of the said ship George and her cargo so paid into the treasury, with interest thereon to be computed after the rate of five per centum per annum, from the time of such payment, retaining thereout the duty of three pounds six shillings and nine pence, as directed by the said decree.

CHAP. LXXX.

An act for paying a sum of money to John Woodson Ellis.

(Passed the 22d of December, 1790.)

Preamble.

SECT. 1 WHEREAS on the eighteenth day of August in the year one thousand seven hundred and eighty-four a lot of land in the city of Richmond, the property of John Woodson Ellis, was appropriated to the use of the public, for the purpose of thereon erecting the public buildings, and the same valued by a jury summoned and charged for that purpose, to the sum of one hundred and fifty-four pounds.

A sum of money to be paid to John Woodson Ellis.

SECT. 2. *Be it enacted by the General Assembly*, That the auditor of public accounts, on application to him made by the said John Woodson Ellis in person or by his attorney, shall issue a warrant or warrants, as well for the said principal sum of one hundred and fifty-four pounds, as for the interest thereon accruing after the rate of five per centum per annum from the said eighteenth day of August in the year aforesaid, payable out of the aggregate fund.

CHAP. LXXXI.

An act for restoring a sum of money to the executors of Robert Fairclaugh deceased.

(Passed the 10th of December, 1790.)

Preamble.

SECT. 1. WHEREAS from a sentence of condemnation passed in the court of admiralty of this Commonwealth against the brigantine Molly, whereof Robert Fairclaugh deceased was master, the said brigantine with her cargo were sold and one moiety thereof amounting to the sum of five hundred and fifty-seven pounds eight shillings and five pence farthing, paid into the public treasury, from which sentence an appeal was granted to the court of appeals, and by a decree of that court the

same was reversed and annulled and the amount of such sales ordered to be restored.

A sum of money to be paid by the Treasurer to the owners of the brigantine Molly.

SECT. 2. *Be it therefore enacted by the General Assembly*, That it shall be lawful for the treasurer of this Commonwealth and he is hereby authorized and required upon receipt of this act, to restore to such person or persons intitled to receive the same under the decree of the high court of appeals, the moiety of the sales of the said brigantine Molly and her cargo so paid into the treasury, with interest thereon to be computed after the rate of five per centum per annum from the time of such payment, retaining thereout the duties of twenty four pounds eighteen shillings, and of three pounds twelve shillings and six pence as directed by the said decree.

CHAP. LXXXII.

An act for paying a sum of money to Reuben Compton.

(Passed the 13th of December, 1790.)

Preamble.

SECT. 1. WHEREAS Reuben Compton of the county of Halifax, by the burning of the Rocky Ridge warehouse, in the year one thousand seven hundred and eighty-four, lost a hogshead of tobacco, which the commissioners appointed by law to ascertain the losses sustained by the said burning, when convened for that purpose, refused to allow for want of proof; And whereas full and sufficient proof of the loss of the said hogshead of tobacco by the said Reuben Compton hath been since adduced.

A sum of money to be paid to Reuben Compton.

SECT. 2. *Be it enacted by the General Assembly*, That the said Reuben Compton shall and he is hereby authorized to demand and receive from the public treasury, payment for the said hogshead of tobacco, calculating the weight thereof at one thousand pounds nett, and the price at the rate of thirty shillings per hundred.

CHAP. LXXXIII.

An act directing duplicates of certificates and warrants to be issued to certain persons.

(Passed the 9th of December, 1790.)

Preamble

SECT. 1. WHEREAS it hath been represented that Benjamin Temple, gentleman, did in the month of June last, loose in Mattopony river, sundry military certificates, and warrants for part of the seventh and eighth years interest thereon; and the said Benjamin Temple hath made application to the General Assembly to issue duplicates of the said certificates and warrants, which it hath been judged reasonable to do;

Duplicates of certain certificates and warrants to be issued to Benjamin Temple;

SECT. 2. *Be it therefore enacted*, That the auditor of public accounts shall issue to the said Benjamin Temple duplicates of the following certificates lost as aforesaid, that is to say, five certificates bearing date the tenth day of March one thousand seven hundred and eighty-two in the name of Benjamin Temple, for the sum of fifty pounds each; one of the same date and name, for the sum of eighty-four pounds; three dated the twenty-seventh day of March one thousand seven hundred and eighty-two in the same name for the sum of one hundred pounds each; one of the same day and year last mentioned in the same name for the sum of fifty pounds; five dated on the twenty-seventh day of March one thousand seven hundred and eighty-four, in the same name for the sum of one hundred and seventeen pounds two shillings and nine pence each; one dated the first day of December one thousand seven hundred and eighty-seven, in the same name for the sum of twenty pounds; one dated the sixth day of May one thousand seven hundred and eighty-three, in the name of Lawrence Slaughter for the sum of forty pounds; one dated on the fifteenth day of July one thousand seven hundred and eighty-three, in the name of William Floyd for the sum of forty-five pounds; one dated the twenty-fourth day of October one thousand seven hundred and eighty-three, in the name of Thomas Hutcheson for the sum one hundred and forty-five pounds seven shillings and two pence; one dated the fifteenth day of December one thousand seven hundred and eighty-four in the name of William Morris, for the sum of

ninety-three pounds six shillings and six-pence; one dated the thirteenth day of December one thousand seven hundred and eighty-four in the name of Jeremiah Graves, for the sum of twenty-five pounds three shillings; one dated the twentieth day of December one thousand seven hundred and eighty-five in the name of Hance Bond, for the sum of seventy-nine pounds four shillings; one dated the twentieth day of December one thousand seven hundred and eighty-five in the name of John Nicholson, for the sum of fifty pounds four shillings; one dated the twenty-first day of December one thousand seven hundred and eighty-five in the name of John Hamilton for the sum of two hundred and thirty-seven pounds seven shillings and nine pence; one dated the seventeenth day of January one thousand seven hundred and eighty-six in the name of John Rogers for the sum of fifteen pounds; one dated the twenty-first day of January one thousand seven hundred and eighty-six in the name of Samuel Wilson, for the sum of seven pounds thirteen shillings and six pence; one dated the twenty-first day of January one thousand seven hundred and eighty-six in the name of John Cheshire for the sum of thirty-three pounds four shillings; one dated the tenth day of August one thousand seven hundred and eighty-six in the name of William Edmundson, for the sum of forty pounds two shillings; one dated the eighteenth day of January one thousand seven hundred and eighty-seven in the name of Thomas Williams, for the sum of seventy-three pounds one shilling and one penny; and two certificates for funded paper money, one dated the twenty-ninth day of November one thousand seven hundred and eighty-five, in the name of the said Benjamin Temple, for the sum of four pounds sixteen shillings and seven pence specie, and the other of the same date in the name of Anne Temple for the sum of three pounds seven shillings and eight pence; and that the auditor also issue to the said Benjamin Temple duplicates of the following warrants lost as aforesaid, that is to say, one dated the tenth day of February one thousand seven hundred and eighty-nine, in the name of Jeremiah Graves, for one pound ten shillings and two pence; one of the same date in the name of John Cheshire, for one pound nineteen shillings and ten pence; one of the same date in the name of Horris Bond, for four pounds fifteen shillings: one of the same date in the name of William Floyd, for two pounds four-

teen shillings; one of the same date in the name of William Edmondson, for two pounds eight shillings and a penny; one of the same date in the name of James Waterman, for one pound six shillings and ten pence; three of the same date in the name of Benjamin Temple for the sum of six pounds each; one of the same date and name for the sum of five pounds and nine pence; six of the same date and in the same name, for the sum of three pounds each; which said warrants were issued for the seventh years interest due on military certificates; Also one warrant dated the twentieth day of March one thousand seven hundred and ninety in the name of John Nicolson, for the sum of three pounds and two pence; two of the same date in the name of Benjamin Temple for seven pounds and six pence each; two of the same date and in the same name for six pounds each; one of the same date and in the same name for the sum of five pounds; four of the same date and in the same name for the sum of three pounds each; one of the same date and name for the sum of eleven shillings and six pence for funded money; one of the same date in the name of Anne Temple for the sum of eight shillings for funded money; nine of the same date for twenty shillings each; and two of three pounds each in the name of Anthony Singleton agent for the sinking fund, which were issued for the eighth years interest.

to Sylvester Ward;

SECT. 3. *And be it further enacted*, That the auditor of public accounts shall also issue to Sylvester Ward duplicates of two military certificates, one in the name of George Ward for the sum of fifty-five pounds eighteen shillings and six pence, the other in the name of Anthony Chevalier for the sum of sixty pounds twelve shillings and eight pence, dated each the thirteenth day of August, one thousand seven hundred and eighty-three, in lieu of the originals which the said Sylvester Ward hath lost.

to Leonard Barnes;

SECT. 4. *And be it further enacted*, That the treasurer of this Commonwealth shall issue to Leonard Barnes a duplicate of a loan-office certificate dated the fourteenth day of June one thousand seven hundred and seventy-nine, for one hundred pounds specie, in lieu of a tattered and torn one.

to William Greene;

SECT. 5. And the auditor of public accounts shall issue to William Greene a duplicate of a provision certificate for the sum of four pounds twelve shillings and six pence: in lieu of the original which was burnt.

to John Whitlock;

SECT. 6. The auditor of public accounts shall also issue to John Whitlock a duplicate of a military certificate for the sum of thirty-five pounds, in lieu of the original which he lost in the year one thousand seven hundred and eighty-seven.

to Thomas Sewell;

SECT. 7. The auditor shall also issue to Thomas Sewell a duplicate of a certificate for two pounds nineteen shillings specie for funded paper money, in lieu of the original which was consumed with his house in the year one thousand seven hundred and eighty-six, and also warrants for the interest due thereon.

and to John Henderson.

SECT. 8. The said auditor shall also issue to John Henderson of the county of Ohio, duplicates of the warrants heretofore issued to him for services rendered by scouts and rangers in the Western country, the originals being lost, and were in the following names and sums, to wit; one in the name of William M'Cullock, for the sum of twenty-four pounds; one in the name of sergeant James Williams, for twelve pounds; one in the name of Joseph Huff, for eight pounds five shillings; one in the name of William Sherrard, for four pounds nineteen shillings; one in the name of Edmund Baxter, for eight pounds five shillings; one in the name of William Layton for eight pounds five shillings, one other to the same person for four pounds nineteen shillings; one in the name of Joseph Eddington, for twenty-one pounds; one in the name of Duncan Mackenzie for eight pounds five shillings; one in the name of Michael Baker, for seven pounds; one in the name of Charles Williams, for eight pounds five shillings; one in the name of Samuel Ogden, for four pounds nineteen shillings; one in the name of Jacob Holmes, for four pounds nineteen shillings; one in the name of Charles Sparks, for eight pounds five shillings; one in the name of John Spencer, for ten pounds; one in the name of William Johnson, for eight pounds five shillings; one other in the same name for four pounds nineteen shillings; one in the name of Michael Woodson, for seventeen shillings; one in the name of Daniel Pierce, for four pounds nineteen shillings; one in the name of Edward Walling, for eight pounds five shillings; and one in the name of James Pursley, for eight pounds five shillings; amounting in the whole to the sum of one hundred and seventy-eight pounds sixteen shillings.

Bond and security to be given by them

SECT. 9. *Provided always, and be it further enacted,* That the said Benjamin Temple, Sylvester Ward, Wil-

liam Green, John Whitlock, Thomas Sewell and John Henderson, shall previous to the obtaining the said duplicates, respectively enter into bond with sufficient security, to be approved of by the executive, to indemnify the Commonwealth and the United States. to indemnify the Commonwealth and the United States.

CHAP. LXXXIV.

An act to repeal in part an act, intitled "An act directing duplicates of certificates and warrants to be issued to certain persons."

(Passed the 29th of December, 1790.)

SECT. 1. *BE it enacted*, That so much of an act, intitled "An act directing duplicates of certificates and warrants to be issued to certain persons," as authorises the auditor to issue duplicates of warrants to John Henderson, shall be and the same is hereby repealed. Part of the act directing duplicates of certificates to be issued to certain persons repealed.

SECT. 2. This law shall be in force from the passage thereof. Commencement of the act.

CHAP. LXXXV.

An act directing payment of a sum of money to Richard Evers Lee, out of the proceeds of certain confiscated property.

(Passed the 25d of December, 1790.)

SECT. 1. WHEREAS it has been represented to the present General Assembly, that Andrew Sprowle, formerly of the county of Norfolk, merchant, left this Commonwealth, indebted by bond to Samuel Allyne, of the same county, deceased, in the sum of four hundred and fifty-eight pounds three shillings and three-pence, which bond became due and payable on the first day of January, one thousand seven hundred and seventy-six; And where- Preamble.

as the estate of the said Andrew Sprowle by reason of his disaffection to the American cause, and actual joining the British forces, was sold under the laws of escheat, and the money arising from the sale thereof, deposited in the public treasury; And whereas letters of administration on the estate of the said Samuel Allyne deceased, were by the court of the county aforesaid, granted to Richard Evers Lee.

A sum of money to be paid to the administrator of Samuel Allyne out of the proceeds of Sprowle's estate; Warrants therefor payable out of the aggregate fund.

SECT. 2. *Be it enacted by the General Assembly*, That the said Richard Evers Lee shall be entitled to receive from out of the proceeds of the said Andrew Sprowle's estate, deposited as aforesaid in the public treasury, the said balance of four hundred and fifty-eight pounds three shillings and three-pence specie, together with the interest accruing thereon, after the rate of five per centum per annum, from the time the same became payable as aforesaid, until payment. *And be it further enacted*, That the auditor of public accounts shall be, and he is hereby empowered and directed to issue to the said Richard Evers Lee administrator as aforesaid, a warrant or warrants on the treasury for the same, payable out of the aggregate fund.

CHAP. LXXXVI.

An act concerning Peter Francisco.

(Passed the 20th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it has been represented to the present General Assembly, that Peter Francisco of the county of Charlotte, entered into the Virginia line as a soldier at a very early period of the late war with Great Britain, received several wounds in the course thereof, and distinguished himself by numerous acts of bravery and intrepidity; And whereas the said Peter Francisco afterwards joined the cavalry to the southward, under the command of colonel William Washington, having first purchased at his own cost a very valuable horse, which being worn down by hardship died in the service;

Sect. 2. *Be it enacted by the General Assembly*, That as well to compensate the said Peter Francisco for the loss of the said horse, as to reward him for his valour, the auditor shall and he is hereby required to issue him a warrant on the treasury for the sum of seventy-five pounds, payable out of the contingent fund.

Peter Francisco allowed a sum of money for his services and for a horse lost in the army.

CHAP. LXXXVII.

An act to vest certain lands whereof Henry Garnett is seized in trustees to be sold and the money laid out in the purchase of other lands.

(Passed the 1st of December, 1790.)

Sect. 1. WHEREAS James Garnett gentleman formerly of the county of Essex deceased, was in his life time and at the time of his death seized in fee simple of a considerable real estate, and being so seized, did by his last will and testament in writing, bearing date the eighteenth day of April one thousand seven hundred and sixty-five, devise a part thereof in these words, to wit, "I give and devise to my grandson Henry Garnett the "land I purchased of Edward Rowsie junior on Occo-"patia creek; Those tracts I purchased of the Repleys; "All the lands I purchased of Francis Covington; a tract "purchased of Berryman Brown, and a moiety of the tract "called Gladdy-fork mentioned before; together with a "moiety of the twelve hundred acres of land purchased "of Francis Gouldman aforesaid, and also one thousand "acres of land purchased of Francis Gouldman and situ-"ate in Caroline county whereon James Goodrich is now "overseer, during his my said grandson Henry's natural "life; Remainder to my son Muscoe and his heirs in "trust and for the use of the first and every other son of "my grandson Henry who shall survive him in tail male "equally to be divided; remainder in trust for the use of "every son of my grandsons Francis and Augustine who "shall survive them in tail male equally to be divided. "Remainder to my son Muscoe and his heirs for ever," as by the said will recorded in the court of the said county

Preamble.

of Essex, may appear; and soon after making the said will the said testator died, and the said Henry Garnett his grandson entered into the said lands and became thereof seized and possessed: And it being represented that it would be greatly to the benefit of the said Henry Garnett and those claiming under him, if he was authorized to make sale of the said lands or a part thereof, and lay out the money arising from such sale in the purchase of other lands more desirably situated, to be of equal or greater value with those so intended to be sold and to be moreover subject to the same restrictions, remainders and limitations as the lands so devised to him by the said will are subject to; for which purpose application hath been made to this Assembly by the said Henry Garnett:

Trustees appointed to sell certain lands whereof Henry Garnett is seized;

SECT. 2. *Be it therefore enacted by the General Assembly*, That Hancock Lee, James Upshaw junior, Andrew Monroe and George William Smith gentlemen or any three of them are hereby authorized and empowered whenever they shall be thereto required by the said Henry Garnett to make sale of the whole or such parts of the said lands devised as aforesaid as by the said Henry shall be deemed most fit, expedient and for the benefit of himself and those claiming in remainder, and to convey the same to the purchaser or purchasers in fee simple.

The purchase money to be vested in other lands subject to the same limitations.

SECT. 3. The money arising from the said sales shall be vested in the said Hancock Lee, James Upshaw, junior, Andrew Monroe and George William Smith gentlemen trustees, to be by them laid out in the purchase of other lands, to be in the opinion of the said trustees or a majority of them of equal value at the least with those lands which shall be sold by them in virtue of this act. And the said lands so purchased shall be conveyed to the said Hancock Lee, James Upshaw, junior, Andrew Monroe and George William Smith gentlemen in trust for the use of the said Henry Garnett, and to descend and pass in the same manner and be subject to the like restrictions, remainders and limitations, as the lands devised to the said Henry, are, by the last will and testament aforesaid, directed to pass, descend and be subject to.

CHAP. LXXXVIII.

An act to confirm the sale of a lot of land made by James Herbert, as guardian of his son Christopher Herbert, and for other purposes.

(Passed the 6th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented that under the Act of Assembly for establishing a marine hospital for the reception of aged and disabled seamen, the commissioners thereby appointed have fixed on certain lots in the town of Washington as the most proper and convenient place on which to erect the said hospital, and that one of the said lots belongs to Christopher Herbert an infant, under the age of twenty-one years: And whereas James Herbert the father and guardian of the said Christopher, hath actually contracted with the said commissioners for the sale of the said lot, and hath petitioned this Assembly to authorize him to convey a title thereto, and to lay out the money arising from such sale in the purchsse of other lands, for the use and benefit of his said son.

Commissioners appointed to value a lot the property of Christopher Herbert;

SECT. 2. *Be it therefore enacted by the General Assembly*, That John Portlock, Charles Odeon, Edmund Almond, Ardree Bartee, and Thomas Nash, jun. gentlemen, or any three of them, who are no ways interested in the said lot of land, shall and may, and they are hereby impowered and directed to set a value on the same, and upon receipt of such valuation it shall be lawful for the said James Herbert, as guardian of his said son Christopher Herbert, to convey the said lot of land to the commissioners of the marine hospital in the manner and for the purposes prescribed by the said recited act.

On receipt of the valuation the lot to be conveyed to the commissioners of the marine hospital;

And the money laid out in other lands:

SECT. 3. *And be it further enacted*, That the purchase money for the said lot of land shall by the said James Herbert be fairly laid out in the purchase of other lands, In trust for the use and benefit of the said Christopher Herbert his son, and shall by good and sufficient deed or deeds be conveyed to him the said Christopher and his heirs in fee simple.

His guardian to give bond

SECT. 4. *And be it further enacted*, That the said James Herbert shall give bond and security in the pe-

and security for the performance of the trust.

nalty of three hundred pounds, for the faithful performance of the said trust reposed in him, and payable to the sitting justices of Norfolk county court, for the benefit of the said Christopher Herbert; which said bond shall be recorded in the said court, and may be put in suit by any person or persons, who may be injured by the non-performance of the trust hereby reposed in the said James Herbert.

CHAP. LXXXIX.

An act to release the right of this Commonwealth to the estate of John Baker, deceased.

(Passed the 7th of December, 1790.)

Preamble.

SECT. 1. WHEREAS John Baker, of the county of Louisa, being *felo de se*, and his estate thereby forfeited and escheated to the Commonwealth.

Interest of the Commonwealth in John Baker's estate who was *felo de se*, released.

SECT. 2 *Be it enacted by the General Assembly*, That all right, title, interest, claim and demand, which now exists in the Commonwealth, or on any office hereafter to be found, shall be established therein, to the estate of John Baker deceased, shall pass, descend and vest in and to the same person or persons, and be subject to all and every claim and claims in law and equity of all and every person and persons whatsoever, in the same manner as if the said John Baker had died a natural death.

CHAP. XC.

An act to vest in trustees a tract of land lying in Louisa county to be sold for the benefit of the children of Roger Thompson.

(Passed the 10th of December, 1790.)

Preamble.

SECT. 1. WHEREAS application hath been made to this Assembly to vest in trustees a certain tract of land

lying in the county of Louisa, which from the death of Mrs. Lucy Thompson late the wife of Roger Thompson hath descended to their five children Joseph Thompson, George Thompson, Foster Thompson, Elizabeth Thompson and Sarah Thompson, to be sold and the money arising from the sale thereof secured to the said children, which is adjudged reasonable.

Trustees appointed to sell a tract of land whereof Lucy Thompson died seized.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the said tract of land containing two hundred and ninety-three acres which hath descended to the said Joseph Thompson, George Thompson, Foster Thompson, Elizabeth Thompson and Sarah Thompson in right of their said mother Lucy Thompson deceased, shall be and the same is hereby vested in George Thompson, William Payne, senior, and John Thompson, gentlemen, and their heirs in trust, that they or any two of them shall as soon as may be, sell the same for the best price to be had, and to convey the said land to the purchaser or purchasers in fee simple.

Purchase money, to whom to be paid.

SECT. 3. The money arising from the sale of the said tract of land shall by the said trustees be paid to the said Joseph Thompson, George Thompson, Foster Thompson, Elizabeth Thompson and Sarah Thompson when they shall severally be entitled to receive the same.

Trustees to give bond and security for the performance of the trust.

SECT. 4. *And be it further enacted*, That the said trustees shall give bond and security in the penalty of five hundred pounds, for their faithful performance of the said trust reposed in them and payable to the sitting justices of Louisa county court for the benefit of the said children, which said bond shall be recorded in the said court, and may be put in suit by any person or persons who may be injured by the said trustees not faithfully performing their said trust.

CHAP. XCI.

An act to confirm the sale of a tract of land made by Thomas Newton junior and John Boush, administrators with the will annexed of John Hutchings deceased, and for other purposes.

(Passed the 27th of November, 1790.)

Preamble.

SECT. 1. WHEREAS John Hutchings gentleman in and by his last will and testament in writing, which has been duly proved and recorded in the court of Norfolk county, among other things directed that his executors should dispose of his whole estate, both real and personal, except the land whereon he lived, together with a wharf disposed of by him, and also his land in the island of Bermuda, and from the sales thereof to pay, in the first place, his just debts, and the residue to apply as in the said will is particularly directed. And whereas it is represented to this present Assembly, that the executors named in the will of the said John Hutchings severally refused to take upon themselves the execution thereof, whereupon administration with the will annexed was in due form granted to Thomas Newton junior and John Boush, who have since sold the personal estate and also a tract of land called Lambert's point, lying in the said county of Norfolk, belonging to the said John Hutchings deceased; and whereas the said Thomas Newton junior and John Boush not being authorized as administrators aforesaid to make a conveyance to the purchaser of the said tract of land, have made application to this Assembly to pass an act as well to do so, as to authorize them to make sale of the remaining lands of their said testator, directed by his said will to be sold and convey the same to the purchaser or purchasers thereof in fee simple.

John Hutchings's administrators authorized to sell and convey the lands directed to be sold by his will.

SECT. 2. *Be it therefore enacted*, That the said Thomas Newton junior and John Boush shall be and they are hereby authorized and empowered to execute a deed for conveying the said tract of land called Lambert's point so as aforesaid sold, to the purchaser in fee, and also to make sale of all or any of the lots or other lands directed by the will of their said testator to be sold for the purposes therein particularly directed to be applied, and

execute sufficient deed or deeds for conveying the same or any part thereof to the purchaser or purchasers in fee simple.

CHAP. XCII.

An act concerning the Marriage of Lewis Roberts.

(Passed the 20th of December, 1790.)

Writ to be sued out of the district court of Kentucky by Lewis Roberts against his wife.

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for Lewis Roberts to sue out of the office of the supreme court of the district of Kentuckey a writ against Rachel Roberts, which writ shall be framed by the clerk, shall express the nature of the case, and shall be published for eight weeks successively in the Kentuckey Gazette, whereupon the plaintiff may file his declaration in the said cause, and the defendant may appear and plead to issue, in which case, or if she does not appear within two months after such publication, it shall be set for trial by the clerk on some day in the succeeding court, but may for good cause shewn to the court be continued until the succeeding term.

Proceedings thereupon.

SECT. 2. Commissions to take depositions and subpœnas to summon witnesses shall issue as in other cases.

SECT. 3. Notice of taking depositions published in the Kentuckey Gazette shall be sufficient.

Truth of the plaintiffs allegations how to be tried.

SECT. 4. A jury shall be summoned who shall be sworn well and truly to enquire into the allegations contained in the declaration, or to try the issue joined, as the case may be, and shall find a verdict according to the usual mode; and if the jury in case of issue joined, shall find for the plaintiff, or in case of enquiry into the truth of the allegations contained in the declaration shall find in substance, that the defendant hath deserted the plaintiff, and that she hath lived in adultery with another man since such desertion, the said verdict shall be recorded, and thereupon the marriage between the said Lewis Roberts and Rachel shall be totally dissolved.

Verdict of the jury to be recorded; effect thereof if in favor of the plaintiff.

CHAP XCIII.

An act appointing trustees to confirm in Curtis Alderson a title to a certain tract of land.

(Passed the 29th of November, 1790.)

Preamble.

SECT. 1. WHEREAS it is represented that by virtue of an act of Assembly, passed in the year one thousand seven hundred and seventy-seven, which empowered the vestry of the parish of Botetourt, to dispose of their glebe lands, that the same were sold to a certain Curtis Alderson, for the consideration of four hundred pounds which has been paid by him; but that previous to his obtaining a title thereto, the said vestry was dissolved, and the said Curtis Alderson having petitioned this Assembly, to confirm in him a title to the said glebe lands:

Trustees appointed to convey a tract of land to Curtis Alderson.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the glebe lands which appertained to the said parish of Botetourt, at the passing of the said recited act, consisting of five hundred and twenty-five acres, and which by the said act were directed to be sold, shall be, and the same are hereby vested in Joseph Haines, Joseph Paxton, Nicholas Carper and William Brians, gentlemen, in fee simple; in trust nevertheless, to be by them or any two of them conveyed to the said Curtis Alderson, and his heirs, in fee simple for ever.

CHAP. XCIV.

An act for vesting in trustees the interest which the Commonwealth hath in certain lands whereof Patrick Coutts died seized.

(Passed the 16th of December, 1790.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly by Benjamin Lewis, Alexander M'Robert and John M'Keand administrators with the will annexed of the estate of Patrick Coutts deceased, unadministered by William Coutts deceased, that the said Patrick Coutts departed this life some time in the year

one thousand seven hundred and seventy-six, leaving a personal estate not sufficient for the payment of his debts, and possessed of several lots and parcels of land lying in the county of Henrico, which have escheated to the Commonwealth, by reason of the heir at law of the said Patrick Coutts being an alien; And whereas it is more agreeable to the principles of justice, that the said lands should be applied to the discharge of the debts of the said Patrick Coutts deceased than that the public should be benefited thereby.

Interest of the Commonwealth in the lands whereof Patrick Coutts died seized, vested in trustees;

SECT. 2. *Be it therefore enacted by the General Assembly*, That all the right and interest which the Commonwealth hath to the said lands upon an office which hath been found, shall be and the same are hereby vested in Nathaniel Wilkinson, Richard Adams, William Hay, John Harvie, William Du Val and George Nicolson, gentlemen trustees, to be by them or any three of them sold for the best price that can be had; giving two months notice of the time and place of sale in the Virginia Gazette.

to be sold;

SECT. 3. The said trustees or any three of them shall convey the said land to the purchaser or purchasers in fee; and the money arising from the sale thereof shall be paid to the said Benjamin Lewis, Alexander M'Robert and John M'Keand administrators of the said Patrick Coutts deceased as aforesaid, to be applied by them in a due course of administration to the discharge of the debts of the said decedent Patrick Coutts, and in case there should be any surplus after paying such debts, the same shall by the said administrators be paid into the public treasury.

Money arising therefrom to be paid to his administrators;

How to be applied by them.

SECT. 4. And whereas it has been further represented to the General Assembly by the said Benjamin Lewis, Alexander M'Robert and John M'Keand, that several lots and parcels of land, part of the estate of the said Patrick Coutts had been sold by them, and also by William Coutts in his life time, who was administrator with the will annexed of the said Patrick, under an opinion that the same were vested in them by the will of the said Patrick, which lots and parcels of land have escheated to the Commonwealth.

The trustees to convey the lots sold by them and by William Coutts to the purchasers.

SECT. 5. *Be it enacted*, That the trustees herein before named, shall convey to the purchasers respectively their heirs or assigns in fee, the several lots and parcels of land so sold as aforesaid.

Rights of all except those claiming under the Commonwealth saved.

SECT. 6. Saving however to all persons and bodies politic and corporate other than those claiming under the Commonwealth, all legal or equitable rights which they might have ascerted to the said lands or any part thereof: Provided that the terms of their several agreements be complied with, on or before the first day of December next.

CHAP. XCV.

An act to credit John Taylor and Francis Warman, certain sums of money.

(Passed the 15th of December, 1790.)

Auditor to credit John Taylor late sheriff of Montgomery, for a certain sum on account of the land tax;

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts, shall and he is hereby required to credit John Taylor, late sheriff of the county of Montgomery, on account of the land tax due from the said county, in the year one thousand seven hundred and eighty-seven, the sum of ninety-six pounds five shillings and five pence halfpenny, being the amount of the tax on certain tracts of land in the uninhabited parts of the said county, which the said John Taylor was prevented from collecting by reason of the danger he was exposed to from the savages.

And Francis Warman late sheriff of Monongalia for the amount of certain certificates and warrants casually destroyed.

SECT. 2. The auditor of public accounts shall also credit Francis Warman, late sheriff of the county of Monongalia, in account for the collection of the taxes due from the said county, for the year one thousand seven hundred and eighty-six, the sum of fourteen pounds in the certificate, and one pound four shillings in the revenue tax, being the amount of certificates, and a warrant collected by Jacob Pendall, deputy sheriff to the said Francis Warman, and consumed with his house in the said year: *Provided*, That the said Francis Warman shall specify the date of and to whom the said certificate and warrant were granted, and give bond and security as in cases of duplicates heretofore granted in lieu of warrants or certificates lost or otherwise destroyed.

CHAP. XCVI.

An act to amend two acts of the Assembly appointing trustees to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes.

(Passed the 10th of November, 1790.)

Preamble.

SECT. 1. WHEREAS doubts have arisen with respect to the powers given the trustees appointed by two acts of Assembly passed in the years one thousand seven hundred and eighty-six, and one thousand seven hundred and eighty-seven, the one intitled "An act appointing trustees to sell part of the lands of John Todd, deceased, for the payment of his debts, and for other purposes," and the other amendatory thereof; to remove which doubts, application hath been made to this Assembly;

Trustees authorized to sell part of the lands of John Todd deceased;

SECT. 2. *Be it therefore enacted*, That the trustees appointed by the said recited acts, or any three of them shall and may proceed to sell in such manner as to them shall seem most advantageous, so much of the lands whereof the said John Todd died seized, as shall be sufficient for carrying into full and complete effect the purposes thereby intended, and convey the same to the purchaser or purchasers in fee simple; *Provided nevertheless*, That the said trustees shall not be authorized to sell the tract of land in the county of Fayette, containing four hundred acres, which was granted to the said John Todd by virtue of his actual settlement right; *And provided also*, That they shall not sell in consequence of the powers hereby given them, more than one fourth part of the lands, whereof the said John Todd died seized.

To lay a statement of their proceedings before the court of Fayette county.

SECT. 3. The said trustees when they have performed the trust reposed in them by this or either of the said recited acts, and shall have made a fair statement of their proceedings therein, which having been examined and approved by the court of Fayette county, shall be recorded therein, from thenceforth the said trustees shall be discharged from the said trust.

Two trustees added to the former.

SECT. 5. *And be it further enacted*, That Percival Butler and Robert Barr, gentlemen, shall be and they

are hereby added to the former trustees, with the same power and authority as any one particularly named in either of the said recited acts.

CHAP. XCVII.

An act for paying a sum of money to Wills Cowper.

(Passed the 23d of December, 1790.)

Preamble.

SECT. 1. WHEREAS it has been represented to the present General Assembly, that Wills Cowper of the town of Suffolk, furnished in the course of the late war eighty-seven barrels of corn for the use of the militia under the command of brigadier general Lawson, and has not received any compensation for the same:

A certificate for a certain sum to be issued to Wills Cowper.

SECT. 2. *BE it enacted by the General Assembly*, That the said corn shall be estimated at the rate of ten shillings per barrel, and the auditor of public accounts shall and is hereby directed to issue to the said Wills Cowper a certificate for the same.

CHAP. XCVIII.

An act authorizing certain trustees to make sale of a lot of land in the county of Accomack.

(Passed the 10th of December, 1790.)

Preamble.

SECT. 1. WHEREAS a lot of land in the county of Accomack, was purchased by joint contribution of divers persons resident as well in the said county as the county of Somerset in the state of Maryland, and appropriated to the purpose of religious worship, and it has been represented to this present General Assembly, that the persons living who are interested in the said land are desirous that the same should be sold:

SECT. 2. *Be it therefore enacted by the General Assembly*, That John Cropper, George Corbin, John Teackle and John Wise, gentlemen, shall be and they are hereby authorized and empowered to sell the said land and the buildings thereon to the highest bidder on twelve months credit, taking bond with sufficient security for the payment thereof, and to convey the same to the purchaser or purchasers in fee simple. Trustees appointed to sell a lot of land in Accomack;

SECT 5. *And be it further enacted*, That the money arising from the sale thereof shall by the said John Cropper, George Corbin, John Teackle and John Wise be paid to the trustees of the Washington academy in the state of Maryland, and the Margaret academy in the county of Accomack for the use of the said academies in equitable proportion as near as may be to the original contributions of the inhabitants of the two counties above mentioned. Money arising from the sale, how to be applied.

CHAP. XCIX.

An act for paying the officers of the General Assembly for their services during the present session.

(Passed the 27th of December, 1790.)

BE it enacted by the General Assembly, That the following allowances shall be made to the officers of the General Assembly for their services during the present session: To the chaplain six pounds per week; to the clerk of the house of delegates thirty-five pounds per week; to the clerk of the senate seventeen pounds ten shillings per week; to the clerk of the committees of privileges and elections and propositions and grievances, twelve pounds ten shillings per week; to the clerk of the committees of religion and claims ten pounds per week; to the clerk of the committee for courts of justice ten pounds per week; to the serjeant at arms for the senate eight pounds ten shillings per week; to the serjeant at arms of the house of delegates eight pounds ten shillings per week; to each of the door-keepers of the senate and house of delegates five pounds per week; and to the per- Allowances to the officers of the General Assembly, for their services during the present session.

son who cleans the capitol the sum of five pounds. This act shall commence and be in force from and after the passing thereof.

IN THE HOUSE OF DELEGATES.

Wednesday, the 3d of November, 1790.

RESOLVED, That so much of the act intitled "An act making provision for the debt of the United States," as assumes the payment of the state debts is repugnant to the constitution of the United States, as it goes to the exercise of a power not granted to the general government.

December the 21st, 1790.—Agreed to by the Senate.

Thursday, the 4th of November, 1790.

RESOLVED, That so much of the act intitled "An act making provision for the debt of the United States," as limits the right of the United States in their redemption of the public debt, is dangerous to the rights and subversive of the interest of the people, and demands the marked disapprobation of the General Assembly.

December the 21st, 1790.—Agreed to by the Senate.

Monday, the 8th of November, 1790.

RESOLVED, That an act of the United States, intitled "An act making provision for the debt of the United States," so far as the same pledges the faith of the United States, and appropriates funds for the payment of certain debts due by the several states in the union, will in its operation be highly injurious to those states, which have by persevering and strenuous exertions, redeemed a considerable portion of the debts incurred by them during the late war, and will particularly produce great injury to this state; Because a large proportion of the debt

then contracted by this Commonwealth, having been already redeemed by the collection of heavy taxes levied on its citizens, and measures having been taken for the gradual payment of the balance, so as to afford the most certain prospect of extinguishing the whole at a period not very distant, the Commonwealth, will by the operation of the aforesaid act, be involved for payment of debts contracted by other states, which either have not paid any part thereof themselves, or have reduced them but in a small proportion compared with the payments made by this state; by means whereof a heavy debt will be intailed on this state, which never can be extinguished by all its efforts, whilst any part of the debts contracted by any state in the American union, and so assumed shall remain unpaid.

December the 21st, 1790.—Agreed to by the Senate.

Monday, the 22d of November, 1790.

THE General Assembly of Virginia considering it as one among the important privileges of the people, that they should have free admission to hear the debates of the senate, as well as of the house of representatives, whenever they are exercising their legislative functions.

Resolved therefore nemine contradicente, That the senators of this state in the senate of the United States be instructed to use their utmost endeavours to procure the admission of the citizens of the United States, to hear the debates of their house whenever they are sitting in their legislative capacity.

Resolved nemine contradicente, That the speakers of the two houses of the General Assembly, be requested to inclose copies of the foregoing resolution, to the legislatures of the several states in the union, requesting their co-operation in similar instructions to their respective senators.

November the 27th, 1790.—Agreed to by the Senate

Monday, the 6th of December, 1790.

RESOLVED, That the executive be requested to transmit the resolutions of the convention of Kentuckey, on the subject of the separation from the Commonwealth of Virginia to the senators of this state, in the Congress of the United States, with instructions, that they use their utmost exertions, to carry into full effect the object of the said resolutions.

December the 8th, 1790.—Agreed to by the Senate.

Monday, the 20th of December, 1790.

RESOLVED, That the act of Congress intitled "An act to enable the officers and soldiers of the Virginia line on continental establishment to obtain titles to certain lands lying north-west of the river Ohio between the little Miami and Scioto," renders the entries and surveys made for the officers and soldiers of the continental line of this state on the north-west side of the Ohio doubtful and precarious and destroys the rights of their assignees which rights have been sanctioned by the laws of this Commonwealth.

Resolved, That the expression of the said act is so vague as to leave it uncertain whether officers having title to lands under the acts and resolutions of the General Assembly of this Commonwealth, but who have not continued in service to the end of the war shall have grants on the warrants which have been issued to them.

Resolved, That the executive be requested to transmit a copy of the foregoing resolutions together with the petition of the officers and soldiers of the Virginia line to the President of the United States.

December the 22d, 1790.—Agreed to by the Senate.

IN THE HOUSE OF DELEGATES.

Thursday, the 16th of December, 1790.

The General Assembly of the Commonwealth of Virginia, to the United States in Congress assembled.

REPRESENT,

THAT it is with great concern they find themselves compelled, from a sense of duty, to call the attention of Congress to an act of their last session, intitled "An act making provision for the debt of the United States," which the General Assembly conceive neither policy, justice nor the constitution warrants. Republican policy in the opinion of your memorialists could scarcely have suggested those clauses in the aforesaid act, which limit the right of the United States, in their redemption of the public debt. On the contrary they discern a striking resemblance between this system and that which was introduced into England, at the revolution; a system which has perpetuated upon that nation an enormous debt, and has moreover insinuated into the hands of the executive, an unbounded influence, which pervading every branch of the government, bears down all opposition, and daily threatens the destruction of every thing that appertains to English liberty. The same causes produce the same effects! In an agricultural country like this, therefore to erect, and concentrate, and perpetuate a large monied interest, is a measure which your memorialists apprehend must in the course of human events, produce one or other of two evils, the prostration of agriculture at the feet of commerce, or a change in the present form of fœderal government, fatal to the existence of American liberty.

The General Assembly pass by various other parts of the said act which they apprehend will have a dangerous and impolitic tendency, and proceed to shew the injustice of it, as it applies to this Commonwealth. It pledges the faith of the United States, for the payment of certain debts due by the several states in the union, contracted by them during the late war. A large proportion of the debt thus contracted by this state, has been already redeemed by the collection of heavy taxes levied on its citizens, and measures have been taken for the gradual payment of the balance, so as to afford the most certain

prospect of extinguishing the whole at a period not very distant: But by the operation of the aforesaid act a heavy debt, and consequently heavy taxes, will be entailed on the citizens of this Commonwealth, from which they never can be relieved by all the efforts of the General Assembly, whilst any part of the debts contracted by any state in the American union, and so assumed, shall remain unpaid; for it is with great anxiety your memorialists perceive, that the said act, without the smallest necessity, is calculated to extort from the General Assembly the power of taxing their own constituents for the payment of their own debts, in such a manner as would be best suited to their own ease and convenience. Your memorialists cannot suppress their uneasiness at the discriminating preference which is given to the holders of the principal of the continental debt, over the holders of the principal of the state debts, in those instances where states have made ample provision for the annual payment of the interest, and where of course there can be no interest to compound with the principal, which happens to be the situation of this Commonwealth. The continental creditors have preferences in other respects, which the General Assembly forbear to mention, satisfied that Congress must allow, that policy, justice and the principles of public credit abhor discriminations between fair creditors Your memorialists turn away from the impolicy and injustice of the said act, and view it in another light, in which to them it appears still more odious and deformed.

During the whole discussion of the fœderal constitution by the convention of Virginia, your memorialists were taught to believe "That every power not granted, was retained," under this impression and upon this positive condition, declared in the instrument of ratification, the said government was adopted by the people of this Commonwealth; but your memorialists can find no clause in the constitution, authorizing Congress to assume the debts of the states! As the guardians then of the rights and interests of their constituents, as sentinels placed by them over the ministers of the fœderal government, to shield it from their encroachments, or at least to sound the alarm when it is threatened with invasion, they can never reconcile it to their consciences, silently to acquiesce in a measure, which violates that hallowed maxim: A maxim on the truth and sacredness of which the fœde-

ral government depended for its adoption in this Commonwealth. But this injudicious act not only deserves the censure of the General Assembly, because it is not warranted by the constitution of the United States, but because it is repugnant to an express provision of that constitution; this provision is "That all debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation," which amounts to a constitutional ratification of the contracts respecting the state debts in the situation in which they existed under the confederation, and resorting to that standard, there can be no doubt, that in the present question, the rights of states as contracting parties with the United States, must be considered as sacred.

The General Assembly of the Commonwealth of Virginia confide so fully in the justice and wisdom of Congress upon the present occasion, as to hope that they will revise and amend the aforesaid act generally, and repeal in particular, so much of it as relates to the assumption of the state debts.

December the 23d, 1790.—Agreed to by the Senate.

AT A

GENERAL ASSEMBLY,

Begun and held at the Capitol in the city of Richmond, on Monday, the seventeenth day of October, one thousand seven hundred and ninety-one, and in the 16th year of the Commonwealth.

Beverley Randolph, Esq. governor.

CHAP. I.

An act concerning the taxes of the year one thousand seven hundred and ninety-one.

(Passed the 2d of December, 1791.)

Taxes of 1791, at what rates they may be discharged.

SECT. 1. *BE it enacted by the General Assembly*, That the taxes on lands, slaves, and other property, which became due on the first day of November, one thousand seven hundred and ninety-one, shall and may be discharged by making payment thereof at the like rates and proportions as were directed to be paid by an act of the last session of Assembly, intituled, "An act concerning the taxes of the year one thousand seven hundred and ninety," on the property therein enumerated; and that the like property shall be exempted from the payment of taxes, as was exempted in the said recited act. And all sheriffs and collectors of the public revenue are required in the collection and receipt of the above-mentioned taxes, to govern themselves accordingly, and where more than the amount aforesaid hath been received, to restore the surplus thereof to the person or persons entitled thereto.

When to be distrained for.

No distress shall be made for any tax which became due on the first day of November, one thousand seven hundred and ninety-one, until the first day of May, one

thousand seven hundred and ninety-two. All the taxes aforesaid shall be accounted for and paid in the same manner, and under the same penalties as the laws under which they respectively arise, prescribe [except that they shall be collected and paid into the treasury in specie only] and shall be accounted for and paid into the public treasury on or before the first day of October, one thousand seven hundred and ninety-two.

When to be accounted for.

Taxes, when to become due in future.

SECT. 2. *And be it further enacted*, That the taxes on lands, slaves, and other property, shall hereafter become due on the thirty-first day of December, in every year, instead of the first day of November.

Repealing clause.

SECT. 3. So much of every act as comes within the purview of this act, is hereby repealed.

Commencement of the act.

SECT. 4. This act shall commence in force from and after the thirty-first day of December, one thousand seven hundred and ninety-one.

CHAP. II.

An act for appropriating the Public Revenue.

(Passed the 14th of December, 1791.)

The aggregate fund;

SECT. 1. *BE it enacted by the General Assembly*, That the arrearages of the revenue taxes due before the first day of November, one thousand seven hundred and ninety, except the taxes on law process, recording of wills and deeds, the seal of the commonwealth, the tax of six shillings per hogshead on tobacco, and the fees from the Register's office, shall continue to constitute the aggregate fund, and remain charged with the payment of all debts heretofore charged thereon, and shall further be charged with all warrants to be issued by the auditor of public accounts, in the year one thousand seven hundred and ninety-two, for interest on any debt due by this Commonwealth, and with all sums of money directed to be paid by any act of the present General Assembly, for which no other provision has been made. And all warrants and other facilities which have heretofore been receivable in discharge of the respective taxes, which by this act constitute the aggregate fund, and all warrants with the payment of which the aggregate fund is charged, by this

Charges thereon.

act, may be paid in discharge of the taxes which constitute the said fund; and the sheriffs or collectors of the revenue which constitute the said fund, shall, on payment thereof into the public treasury have credit for the same accordingly.

Funds for the support of civil government.

SECT. 2. *And be it further enacted*, That the arrearages of the taxes on law process, recording of wills and deeds, the tax on the seal of the commonwealth, and from the register's office, which were due before the first day of November, one thousand seven hundred and ninety; all branches of revenue which arose to the commonwealth between the thirty-first day of October, one thousand seven hundred and ninety, and the first day of November, one thousand seven hundred and ninety-one; and all branches of revenue which shall arise to the commonwealth between the thirty first day of October, one thousand seven hundred and ninety-one, and the first day of January, one thousand seven hundred and ninety-three, shall be appropriated to the support of civil government, and for the contingent charges thereof; and shall also be charged with the payment of all unsatisfied warrants charged on any of the said funds by an act of the last session of Assembly, intituled, "An act providing funds for the support of government, and for the payment of the public debts," with warrants hereafter issued for expences attending criminal prosecutions, except for guards in the several counties and corporations; for compensation for slaves executed; for the states shares in the Patowmac, James River and Dismal Swamp canal companies; for the hospital for the reception of persons of unsound mind; for erecting public buildings at the fœderal seat of government on the Patowmac; for the expences attending the arsenal at the point of Fork, and for all pensions allowed by this Commonwealth. And if the funds herein appropriated to the payment of the officers of civil government, and of warrants issued by direction of the executive for the contingent purposes thereof; on account of the states shares in the Patowmac, James River and Dismal Swamp canal companies; for the hospital for the reception of persons of unsound mind; for erecting the public buildings at the fœderal seat of government, on the Patowmac; for all pensions due by this Commonwealth, and all legal expences which may accrue by order of the executive, in defence of the western frontier, should not be productive early enough

Charges on the revenue of 1791.

Treasurer to supply deficiency in certain funds by borrowing from others.

for these purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money as shall be deficient, out of any other funds, and to replace the same as soon as possible. The arrears due to this Commonwealth under the act "For redeeming certain certificates," shall be appropriated to the redemption of all certificates or warrants issued by the auditor of public accounts, for all liquidated claims due by this commonwealth, and for which no other provision hath been made, and all persons indebted for any arrears under the said act, may make payment thereof in any such certificates or warrants; and every sheriff or collector of the said certificate tax, on payment thereof into the public treasury shall have credit for the same accordingly.

Arrearages of certificate tax; how appropriated.

Repealing clause.

SECT. 2. So much of every act of Assembly, as comes within the purview of this act, shall be and the same is hereby repealed.

Commencement of the act.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. III.

An act to amend and continue two acts passed in the year one thousand seven hundred and eighty-eight, directing the mode of proceeding under certain executions.

(Passed the 15th of December, 1791.)

Preamble.

SECT. 1. WHEREAS the act of Assembly passed on the fourth day of January, in the year one thousand seven hundred and eighty-eight, intituled, "An act directing the mode of proceeding under certain executions," and one other act passed on the twenty-ninth day of December, in the year one thousand seven hundred and eighty-eight, intituled, "An act to amend the act directing the mode of proceeding under certain executions," will both expire in the month of January next, and it is judged expedient that the same should be further continued: *Be it therefore enacted*, That the said two above recited acts shall continue and be in force until the first day of January, one thousand seven hundred and ninety-three.

Certain acts concerning executions continued.

Surplus arising from the sale of a debtor's goods to be returned to him;

Sect. 2. *And be it further enacted*, That wheresoever on a sale for cash or tobacco under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators, or agent; and if any sheriff or other officer shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security or securities, his or their executors or administrators, shall every and each of them be liable to the like penalty and judgment in favour of the said debtor, as is prescribed and directed by law in favour of the plaintiff against the sheriff for not paying the principal, interest, and costs levied on an execution.

Penalty on sheriff's withholding it.

Money levied by execution, to be returned to the defendant obtaining an injunction;

Sect. 3. *And be it further enacted*, That when a sheriff or other officer under any execution, shall receive the whole or any part of the money or tobacco for which the said execution issued, and the person against whom such execution may have issued, his executors or administrators shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators, in every such case, the sheriff or other officer, his executors or administrators, shall repay to the person or persons against whom such execution issued, his or their executors, administrators, or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff or other officer, his or their executors or administrators, shall fail or refuse when required, to repay such sum of money or tobacco, so received and enjoined, to the person having a right to demand the same, such sheriff or other officer and their securities, his or their executors and administrators, and every of them shall be liable to the like penalty and judgment in favor of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law in favor of the plaintiff against the sheriff for not paying money or tobacco levied on an execution.

Penalty on sheriff withholding it.

Bonds for producing property on the day of sale, when to be returned.

Sect. 4. If any sheriff or other officer shall fail to deliver or return any bond taken for the forthcoming of property, by virtue of the above last recited act, within sixty days after the date thereof, to the office of the clerk of the court whence such execution issued, he shall be

liable to the same penalty for every month of such failure, and to be recovered in the same manner, as is directed by law against a sheriff or coroner failing to return an execution.

Penalty on sheriff failing to return an execution.

SECT. 5. *And whereas* doubts have arisen in what manner judgment shall be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued on or before the return day thereof—For a plain declaration of the law, *Be it enacted*, That where any writ of execution or attachment for not performing a decree in chancery shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner or serjeant of a corporation, at their discretion, in any sum not exceeding five pounds per month for every hundred pounds contained in the judgment or decree on which the execution or attachment so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment to the day of rendering judgment for the said fine.

Venditioni exponas to be issued if goods remain unsold in sheriff's hands.

SECT. 6. If the goods taken by any sheriff or other officer, or any part thereof, shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution.

Sheriff's commissions for serving executions.

SECT. 7. The sheriff or other officer serving an execution, if the property be actually sold or the debt paid, shall in lieu of the commission heretofore given by law, be allowed a commission of five per centum on the first hundred pounds, or ten thousand pounds of tobacco, and two per centum on all sums above that, but where he shall have proceeded to sale, and the defendant shall have replevied, such sheriff or collector, shall be allowed only one half of such commissions.

Executions on replevy bonds, how to

SECT. 8. *And be it further enacted*, That if any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under the said re-

cited acts, or assignee of any such obligee, as the case may be, shall die before such bond be fully paid, it shall and may be lawful for the clerk of any court within this Commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to indorse thereon that no security is to be taken; any law to the contrary notwithstanding. be issued where the obligors or obligees die.

SECT. 9. This act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-two. Commencement of the act.

CHAP. IV.

An act giving further time to the owners of surveys to return the plats and certificates thereof into the land-office.

(Passed the 7th of November, 1791.)

WHEREAS it hath been represented, that the time allowed by the act of the last session, intituled, "An act for giving further time to the owners of surveys, to return the plats and certificates thereof into the land-office," was not sufficient to comply with the purposes thereof; and application hath been made to this Assembly, to extend the time: *Be it therefore enacted*, That the further time of two years, to be computed from the expiration of the period mentioned in the said recited act, shall be allowed for returning all plats and certificates of surveys on the Western waters, and the further time of twelve months from the time of passing this act, shall be allowed for returning all plats and certificates of surveys on the Eastern waters, to the register of the land-office, who shall receive the same, and such lands shall not be considered as forfeited, or liable to forfeiture; any law to the contrary thereof notwithstanding. Preamble

Plats of surveys on the Western waters, when to be returned; when on the Eastern waters.

CHAP. V.

An act for the relief of Sheriffs in certain cases.

(Passed the 15th of December, 1791.)

Sheriffs empowered to sell lands where they have paid the taxes thereon.

SECT. 1. *BE it enacted by the General Assembly*, That where any sheriff or collector of the public revenue, shall make it appear to the court of his county, by receipt from the auditor of public accounts, that he had paid into the public treasury the full amount of the taxes he was bound to collect before the passing of an act of the last session of Assembly, intituled, "An act to amend the act, intituled, An act to remedy abuses in the manner of selling lands for the payment of public taxes;" and also produce to the court satisfactory proof that he has not received the taxes for which he has accounted, on lands within his county belonging to persons who have no other property on which the said taxes can be levied, it shall and may be lawful for the court to authorise and direct the said sheriff or collector to sell, after due notice given, for ready money, the said lands or so much of them as will discharge the taxes on them respectively as aforesaid, together with the expenses of notice and sale. *Provided nevertheless*, that if any of the said lands will not sell for three-fourths of their value in the opinion of the commissioners of the land tax, the same shall be sold at six months credit, the purchaser giving bond with good security for payment with interest to such sheriff or collector, which bond may and shall be of the same force, have the same effect, and be proceeded on in the same manner, as bonds taken on distress for rent.

Sales, how to be conducted.

Commencement and duration of the act.

SECT. 2. This act shall commence and be in force from the passing thereof, and shall continue in force for the term of two years, and no longer.

CHAP. VI.

An act authorising the executive to direct the sheriffs to sell certain lands the property of this Commonwealth.

(Passed the 20th of December, 1791.)

The executive to send to the sheriffs lists of lands purchased by the public for the non-payment of taxes.

SECT. 1. *BE it enacted*, That the governor, with the advice of council, is hereby authorised and empowered to transmit from time to time, to the several sheriffs in their respective counties, wherein the land belonging or which may belong to the Commonwealth, may lie, and which became or will become the property of the said Commonwealth by purchase, for taxes due under the revenue laws, and which land has not been or shall not be redeemed within the time limited by law, lists of all such land as aforesaid, and the amount of taxes, costs and damages, for which the said land was subject, and demand a receipt therefor, from such sheriffs, which receipt shall be lodged in the auditor's office, have the force of a bond, and be entered in a book to be kept for that purpose.

The sheriffs to sell the said lands,

SECT. 2. The said sheriffs on the receipt of the lists aforesaid shall proceed without delay, to advertise the said lands for sale, giving as full a description of all the said land in his county, as he shall be able to obtain, and after advertising as aforesaid, two months on one or more court days in each month, at the door of the court-house of his county, and at such other public places as he may think necessary, sell the said land, within the term of three months from the receipt of the said lists, at the times and places notified, for the best price to be got in ready money, unless the owner, his agent or friend, shall on or before the day of sale, pay up the full amount of the taxes and damages for which such land is now chargeable, and five per centum as a commission to the said sheriff: And in case of payment as aforesaid, the said sheriff shall release such land, by certificate under his hand and seal, duly attested by three respectable witnesses, that the public demands as aforesaid on the said land are satisfied, and in every such case, he shall return a copy of the said certificate to the auditor, and shall al-

unless the taxes and their commissions are paid on the day of sale;

and account for the money.

so make true return of every sale or sales, and account for and pay the amount thereof into the public treasury, within two months after the last sale made, deducting therefrom a commission of five per centum only, and the necessary charges, under the same penalties as are by law inflicted for failure to make payment under the revenue law. And the auditor of public accounts shall have the same power and authority to call delinquent sheriffs herein to account, in the same manner, and have the same proceedings and remedies against them, as is had on bonds for the collection of the revenue.

Penalty on sheriff refusing to receive the list, or failing to account for the money.

SECT. 3. *And be it further enacted*, That any sheriff refusing to receive the said list of lands, or to grant a receipt for the same, or failing to make due and faithful return of his proceedings, relative thereto, shall on proof thereof in any court of record within this Commonwealth, on motion of the auditor of public accounts, forfeit and pay the sum of ten pounds, and costs: *Provided*, such sheriff has ten days previous notice of such motion. And the said motion may be repeated during the continuance of such failure, by the auditor, on giving new notice as aforesaid, until recovery be had of double the amount of arrearages due on the land, in such lists as may be put into his hands, with interest, damages and costs of such motion or motions.

Sheriffs to convey the land sold by them, and to be allowed the expense of surveying it.

SECT. 4. *And be it further enacted*, That any sheriff making sale of the lands as aforesaid, be authorised and required on payment of the purchase money being made to him, to convey the said land in fee, to the purchaser or purchasers by one or more deed or deeds as may be necessary, and that the proper expenses attending the surveying and laying off such land, shall be paid by the said sheriff, and be allowed to him in settlement of his account.

To survey the said land at their own expense, where they have been heretofore allowed for it, or to pay the amount thereof to the auditor.

SECT. 5. *And be it further enacted*, That where any sheriff shall heretofore have been allowed in settlement with the treasurer for any survey of the lands aforesaid, and shall not have made the said survey, that he shall cause such survey to be made when required, at his own costs, or that it shall and may be lawful for the auditor of public accounts by himself or agent, to demand and receive the said allowance; and if it shall not be paid, he may recover the amount thereof by motion, with costs, in any court of record, on ten days previous notice to any such sheriff or sheriffs, or their securities; and the

money so refunded, the auditor shall account for and pay into the treasury, on order from the executive, who shall previously examine and certify his account to be right.

Sect. VI. *And be it further enacted*, That whenever the lands shall be redeemed and released as aforesaid, on which no survey has been, and where the said allowance has been made to any sheriff, it shall be repaid to the owner of such land, and he shall have the same remedy against such sheriff and his securities, as is herein given to the auditor of public accounts. or to the party in case the land is redeemed.

Sect. VII. This act shall commence and be in force from and after the passing thereof. Commencement of the act.

CHAP. VII.

An act for the election of additional Representatives to the present Congress.

(Passed the 20th of December, 1791.)

Sect. 1. WHEREAS it is necessary that provision be made for the election of additioual representatives to serve in Congress until the fourth day of March, one thousand seven hundred and ninety-three; *Be it enacted by the General Assembly*, That on the second Tuesday in February next, an election shall be held for choosing one representative to Congress for the counties of Accomack and Northampton, which shall compose one district; for the counties of Norfolk, Princess Ann, Nansemond, Isle of Wight, Surry, and Southampton, which shall compose another district; and for every other district, except the district of Kentucky, agreeably to the arrangement thereof made by the act, intituled, "An for the election of representatives pursuant to the constitution of government of the United States," one additional member shall be chosen: *Provided always*, That if this state shall be entitled to no more than nine additional members to Congress, that then the counties of Accomack and Northampton, shall not of themselves form a district, but shall continue annexed to the counties of Norfolk, Princess Ann, Nansemond, Isle of Wight, Surry, and Southampton. *Provided also*, That if this state shall be entitled to eleven additional represen- Preamble. Additional representatives to Congress, when to be elected; arrangement of districts.

tatives, in that case, the counties of Berkeley, Frederick and Shenandoah, shall form one district, and the counties of Monongalia, Ohio, Harrison, Hampshire, Hardy, Pendleton, and Randolph, shall compose another district.

Elections, how to be conducted.

SECT. 2. *And be it further enacted*, That the said elections shall be conducted in the same manner and under the same rules and regulations, as are prescribed by an act of Assembly, intituled, "An act for the election of representatives, pursuant to the constitution of government of the United States."

Repealing clause.

SECT. 3. So much of every other act, as prescribes the time of electing representatives to serve in the Congress of the United States, is hereby repealed.

Commencement of the act.

SECT. 4. This act shall be in force from the passing thereof.

CHAP. VIII.

An act to amend the act, intituled, "An act for ascertaining certain taxes and duties, and for establishing a permanent revenue."

(Passed the 17th of December, 1791.)

Preamble.

SECT. 1. *BE it enacted by the General Assembly*, That the commissioners of the land tax, shall before the first day of August in every year, return to the courts of their respective counties or corporations, a correct account of their services, and the said courts are hereby respectively authorised and required to ascertain the time, in which the said services might have been reasonably performed; and in lieu of the allowance heretofore made, the said commissioners shall be paid by the treasurer of this commonwealth, on warrant from the auditor of public accounts, six shillings per day, agreeably to the time so ascertained by the court.

Allowance to the commissioners.

Repealing clause.

SECT. 2. So much of every act, as comes within the purview of this act, is hereby repealed.

Commencement of the act.

SECT 3. This act shall commence and be in force from and after the passing thereof.

CHAP. IX.

An act for amending the several laws establishing the Sinking Fund.

(Passed the 15th of December, 1791.)

The interest on the deficiency of the loan of the state debt to be received by the treasurer;

SECT. 1. *BE it enacted by the General Assembly*, That the treasurer of this commonwealth shall be, and he is hereby authorised to draw the interest which shall be payable to this state by the commissioner of loans for the United States, from time to time, on account of the deficiency of the loan of the state debt, pursuant to an act of Congress, intituled, "An act making provision for the debt of the United States;" which interest shall be applied to the purchase of such public securities of this state, or of the United States, as may in the opinion of the executive, be most for the public benefit.

how to be applied.

Former appropriation of arrearages to the sinking fund continued.

SECT. 2 The proportion of the arrearages of taxes granted in aid of the sinking fund, by an act of the session of one thousand seven hundred and eighty-nine, intituled, "An act to appropriate the public revenue," shall continue so appropriated.

The agent's commission.

SECT. 3. The agent of the sinking fund shall be entitled to receive for his services, a commission not exceeding five per centum on the nett profits to the commonwealth, from the purchases aforesaid.

No warrants to be issued for interest on certificates in the sinking fund.

SECT. 4. *And be it further enacted*, That so much of an act, intituled, "An act providing a sinking fund for the gradual redemption of the public debt," and of every other act as entitles the governor, with the advice of council, to warrants for interest on certificates in the treasury, or in the sinking fund, and so much of every act, as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of the act.

SECT. 5. This act shall commence and be in force from and after the passage thereof.

CHAP. X.

An act concerning the offices of Auditor and Solicitor.

(Passed the 25th of November, 1791.)

Preamble.

Office of solicitor discontinued;

auditor to perform his duties and to prosecute public debtors;

executive may appoint clerks to assist him.

Balances due for duties to be paid by the debtors into the treasury.

Commencement of the act.

SECT. 1. WHEREAS the office of solicitor will soon become unnecessary; *Be it therefore enacted*, That from and after the thirty-first day of December, one thousand seven hundred and ninety-one, the office of solicitor-general shall be discontinued, and thenceforward all the duties, powers and authority heretofore by law required to be exercised by the solicitor-general, shall be executed by the auditor, and all notices, motions and other proceedings which have been originated by the late solicitor, or by his successor in office, in behalf of the Commonwealth against public delinquents, and all such as may be given or commenced before the first day of January, one thousand seven hundred and ninety-two, shall after that period be deemed as valid, as if such notices, motions and other proceedings had been given or commenced by the auditor under this act.

SECT. 2. *Be it further enacted*, That the executive may appoint, if necessary, one or more clerks to assist the auditor in the duties of the former solicitor-general, with a salary of one hundred pounds per annum to each who shall continue in office until the end of the next session of the General Assembly, unless in the opinion of the executive the said business may be sooner accomplished.

SECT. 3. *And be it further enacted*, That from and after the passing of this act, the balances due for duties on imports, which heretofore were payable to the solicitor, and by him accounted for with the treasurer, shall be paid by the debtors, directly into the public treasury, having obtained a warrant from the auditor for that purpose. Any law to the contrary notwithstanding.

SECT. 4. This act shall commence and be in force from the passage thereof.

CHAP. XI.

An act to explain and amend the act constituting the present Court of Appeals.

(Passed the 16th of December, 1791.)

Preamble.

SECT. 1. WHEREAS the sessions of the court of appeals have been so changed by an act of the present session of the General Assembly, as to render it difficult for the judges of the general court to meet for constituting a special court of appeals, according to the directions of two several acts of Assembly for amending the acts concerning the court of appeals, passed in the years one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety: *Be it therefore enacted by this present General Assembly*, That the said special courts of appeals shall meet on the twentieth days of June and November, if not on a Sunday, and then on the next day, as the case may require, instead of the first days of the sessions of the court of appeals.

Sessions of the special courts of appeals.

SECT. 2. *And be it further enacted*, That the clerk of the court of appeals shall make the summonses ordered at the last session of the court of appeals, for summoning the judges for constituting a special court of appeals in the suits in the said order mentioned, returnable to the tweentieth day of June next, instead of the first day of the next session of the said court of appeals.

Summonses ordered at the last court, returnable to the 20th June next.

SECT. 3. *And be it also enacted*, That the judges of the court of appeals, not disqualified to sit in any special court of appeals, shall be paid the same for travelling and attendance, as the other judges are now by law allowed.

Allowance to judges of the court of appeals for travelling and attendance.

SECT. 4. *And whereas* it is doubtful whether the judge of the high court of chancery must not necessarily be one of the judges for constituting all such special courts, except in appeals from the high court of chancery; *Be it therefore enacted*, That in case of the sickness or disability of the judge of the high court of chancery for the time being, which may prevent his attendance at a special court of appeals, such court may be formed by other judges, according to the directions of the two before recited acts, in the same manner as if the appeal had been from the high court of chancery.

The Chancellor's attendance not necessary to constitute a special court.

Special courts to be attended by the clerk,

SECT. 5. *And be it enacted*, That the clerk of the court of appeals for the time being, shall attend all such special courts with the records in the cases to such special courts committed, and enter the proceedings of all such special courts in the order book of the court of appeals, and the same shall be signed by the presiding judge of such special court, and be certified to the inferior court, and carried into execution in the same manner as if the same had been determined in the court of appeals.

and other officers of the court of appeals.

SECT. 6. *And be it enacted*, That such special courts shall be attended by the like officers with the court of appeals, who shall receive the like compensation as they now do in the said court; and that such special courts may adjourn and do all and every act as a court during their session which the court of appeals may by law do.

Causes in the special courts, when to be resumed by the court of appeals.

SECT. 7. *Provided always, and be it further enacted*, That where any cause shall be pending in any such special court, and the same shall not be determined before there shall be a sufficient number of the judges of the court of appeals, qualified to make a court for deciding the same, such cause shall be resumed by the court of appeals and be determined there as if such cause had never been committed to a special court.

Repealing clause.

SECT. 8. *And be it further enacted*, That so much of all and every other act or acts as may be contrary to this act, shall be, and the same is hereby repealed.

Commencement of the act.

SECT. 9. And that this act shall commence and be in force from and after the first day of January next.

CHAP. XII.

An act for altering the time of holding the sessions of the court of Appeals, and a session of the high court of Chancery.

(Passed December 3d, 1791.)

Sessions of the court of appeals,

SECT. 1. *BE it enacted by the General Assembly*, That instead of the first day of June and the first day of November, the court of appeals shall be henceforth holden on the tenth day of April and the tenth day of October in every year; or when that shall happen to be on Sunday.

on the succeeding day, and shall sit each time until the business depending before them shall be dispatched.

SECT. 2. *And be it further enacted*, That instead of the twelfth day of October, the high court of chancery shall be held on the first day of September in every year; or when that shall happen to be on Sunday, on the second day of September, and shall sit for twenty-four juridical days successively, unless the business depending before the said court shall be sooner dispatched. of the court of chancery.

CHAP. XIII.

An act for further continuing three acts of Assembly concerning the better regulating and collecting certain officers fees, and for other purposes therein mentioned.

(Passed December 17th, 1791.)

WHEREAS the act of Assembly, passed in the year one thousand seven hundred and forty-five, intituled, "An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned," which was continued and amended by two subsequent acts, the one passed in the year one thousand seven hundred and eighty-five, and intituled, "An act to revive an act, intituled, An act for the better regulating and collecting certain officers fees, and other purposes therein mentioned," the other passed in the year one thousand seven hundred and eighty-eight, intituled, "An act for further continuing the act, intituled, An act for the better regulating and collecting certain officers fees, and for other purposes therein mentioned," will expire at the end of the present session of Assembly, and it is expedient and necessary, that the said recited acts should be further continued: *Be it therefore enacted by the General Assembly*, That the said several recited acts, shall be continued from and after the expiration thereof, for the term of three years, and from thence to the end of the next session of Assembly; except so much of the said first recited act which passed in the year one thousand seven hundred and forty-five, as relates to the delivery of the Preamble. Certain acts respecting clerks fees continued, in part.

said fees, and of the collection and recovery of such of them as were formerly payable to the secretary and surveyors.

CHAP. XIV.

An act concerning the southern boundary of this state.

(Passed December 7th, 1791.)

Preamble.

SECT. 1. WHEREAS official information hath been received by the General Assembly, that the legislature of the state of North-Carolina have resolved to establish the line commonly called Walker's line, as the boundary between North-Carolina and this Commonwealth, and it is judged expedient to confirm and establish the said line on the part of this state: *Be it therefore enacted by the General Assembly*, That the line commonly called and known by the name of Walker's line, shall be, and the same is hereby declared to be the boundary line of this state.

Walker's line declared to be the southern boundary of this state.

Claims to land between Walker's and Henderson's lines, how to be settled.

SECT. 2. *And be it further enacted*, That in all courts of law and equity within this Commonwealth, the claims for lands lying between the line commonly called Walker's line, and the line commonly called Henderson's line, shall be decided in favour of the oldest title, whether derived from this Commonwealth or from the state of North-Carolina.

CHAP. XV.

An act to amend and explain the act, intituled, "An act to amend the act, intituled, An act concerning a new edition of the Laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the Laws and Resolutions of each Session.

(Passed November 3d, 1791.)

Preamble.

SECT. 1. WHEREAS by the third section of the act passed at the last session of Assembly, intituled, "An act to amend an act, intituled, an act concerning a new edition of the laws of this Commonwealth, reforming certain rules of legal construction, and providing for the due publication of the laws and resolutions of each session," *It is enacted*, that the said revisors shall make report of their proceedings to the next session of the General Assembly, and that an act passed at the last session, intituled, "An act repealing part of an ordinance by which certain English statutes were declared to be in force within this Commonwealth," shall be, and the same is hereby continued until the General Assembly shall have acted thereon. And whereas doubts have arisen, whether by continuing the last recited act, the said ordinance was not repealed, and for removing such doubts, as well as to declare and explain the law thereon, *Be it enacted*, That so much of the said act as repeals a part of the ordinance by which certain English statutes were declared to be in force within this commonwealth, shall be deemed, taken, and considered to have been suspended, until the revisors shall make report of their proceedings, and the General Assembly shall have acted thereon.

Part of an act of Assembly to be deemed to have been suspended.

SECT. 3. *And be it further enacted*, That the said recited ordinance, so far as the same relates to the said statutes, shall continue to be in force.

Part of an ordinance concerning the English statutes continued.

SECT. 3. This act shall commence and be in force from the passage thereof.

CHAP. XVI.

An act to amend and explain the act, intituled, "An act for the further continuing three acts of Assembly concerning the better regulating and collecting certain officers fees, and for other purposes, therein mentioned.

(Passed December 20th, 1791.)

Rate at which tobacco for clerks fees is to be discharged.

BE it enacted, That nothing contained in the act, intituled, "An act for further continuing three acts of Assembly concerning the better regulating and collecting certain officers fees, and for other purposes therein mentioned," shall be so construed or understood as to entitle the clerks of the several courts in this Commonwealth to more than one penny and a farthing for each pound of tobacco for legal fees.

CHAP. XVII.

An act to amend and explain an act, intituled, "An act remitting certain militia fines, and for other purposes."

(Passed December 17th, 1791.)

Preamble.

WHEREAS by an act, intituled, "An act remitting certain militia fines, and for other purposes," it is among other things enacted, that where fines have been collected and not actually applied as the law directs, the same shall be refunded to the persons respectively, or their legal representatives, from whom they were collected; and where such fines have been collected and actually applied as the law directs, the persons from whom the same were collected, or their legal representatives, shall be refunded a like sum, out of the first militia fines, which may be hereafter collected; any thing in any law to the contrary hereof, notwithstanding. But no remedy is provided, whereby the person or persons, entitled to have such fine or fines refunded, may compel

the payment thereof: For remedy whereof, *Be it enacted*, That any person or persons entitled by the said act, to have any fine or fines refunded, where the same does amount to twenty-five shillings or upwards, shall have remedy by motion in the court of the county where such fine was assessed, against the county-lieutenant or any other person or persons, who may have the same in his or their hands, and it shall be lawful for the said court on such motion, and they are hereby authorised and required, to enter up judgment and to issue execution for the same. *Provided*, the person or persons against whom such motion is made, shall have ten days notice thereof. And where such fine or fines shall not amount to twenty-five shillings, the person entitled to receive the same, shall have remedy by warrant before a single justice of peace.

Remedy against persons withholding militia fines directed to be refunded.

CHAP. XVIII.

An act to amend the act, intituled, "An act for the inspection of pork, beef, flour, tar, pitch, and turpentine."

(Passed December 6th, 1791.)

SECT. 1. *BE it enacted*, That from and after the passing of this act, the quantity of pork, which each and every inspector of that article shall cause to be put into every barrel of pork, by him or them inspected, shall be two hundred and four pounds nett weight, instead of two hundred and twenty pounds heretofore directed by law.

Quantity of pork to be put in every barrel,

SECT. 2. *And be it further enacted*, That no inspector shall stamp or brand any barrel of pork which shall not be full bound, having at least twelve hoops thereon.

Number of hoops.

SECT. 3. *And be it further enacted*, That so much of all and every act or acts as is contrary to this act, shall be repealed.

Repealing clause.

SECT. 4. This act shall commence and be in force from and after the passing thereof.

Commencement of the act.

CHAP. XIX.

An act respecting the deputy register's office in the district of Kentucky.

(Passed December 17th, 1791.)

Certain plats of surveys to be retained by the deputy register in his office.

SECT. 1. *BE it enacted by the General Assembly*, That the deputy register of the district of Kentucky, shall retain in his office all plats and certificates of surveys which are now, or which shall come into his office before the first day of June next, there to remain until the general assembly of Kentucky shall give directions respecting them.

Commencement of the act.

SECT. 2. This act shall commence and be in force from the passage thereof.

CHAP. XX.

An act to amend the act, intituled, "An act for providing for the poor of the different counties of this Commonwealth.

(Passed December 15th, 1791.)

County courts to appoint overseers of the poor in certain cases.

SECT. 1. *BE it enacted by the General Assembly*, That whenever it shall so happen that the person appointed to superintend the election of overseers of the poor in any district, shall fail to attend agreeable to his appointment, or in case there be no election, on account of the non-attendance of the electors, or in case of the death, refusal, or disability of any overseer or overseers of the poor, the county court shall, and they are hereby required at their next court, to fill up any vacancy that may so happen.

Annual meeting of overseers of the poor may be on any day in September.

SECT. 2. If the number of the overseers of the poor of any county required by law, shall not assemble on the day appointed for their annual meeting, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the month of September.

Poor rates, when to be accounted for by the collector.

SECT. 3. The sheriff or collector of the poor rates in every county or corporation, shall annually on or before the first day of May, pay, by order of two or more overseers of the poor, the money or tobacco to the several persons for whom it was levied or assessed, and on failing or neglecting so to do, it shall be lawful for the party to recover the same by motion in the court of the county or corporation where such failure or neglect happen: *Provided always*, That the sheriff or collector has ten days previous notice of every such motion.

Remedy against overseer of the poor for withholding rates.

SECT. 4. Wheresoever any overseer or overseers of the poor have or may hereafter receive of the collectors of the poor rates any money or tobacco, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors, or administrators, shall have the same remedy against such overseer or overseers, their heirs, executors, or administrators, as he, or they, might have had against the collector if the money or tobacco had remained in his hands.

Another collector to be appointed where the first dies.

SECT. 5. In case of the death of any person appointed to collect the poor rates at any time before his collection begins, the overseers of the poor shall and may have power to assemble and appoint another collector, of whom they shall take bond with sufficient security in the same manner as is directed to be taken of a collector appointed at their annual meeting; which collector shall have the same powers, and be subject to the same rules and regulations, and be moved against in the same manner, as other collectors of the poor rates.

No security to be taken on executions against overseers or collectors for poor rates.

SECT. 6. On all executions which may issue against any collector of the poor rates, his heirs, executors, or administrators, or against any overseer or overseers, of the poor, his or their heirs, executors or administrators, on any judgment obtained, or which may hereafter be obtained against him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse "no security to be taken."

Fines appropriated to lessening the levy for the poor to be distrained for.

SECT. 7. *And be it further enacted*, That all fines and forfeitures inflicted under the penal laws, which are appropriated to the use of the county towards lessening the levy for the support of the poor, shall be made distrainable and accounted for by the sheriff in the same manner

as the fines appropriated for the use of the county towards lessening the levy thereof.

Poor rates to be levied in specie.

SECT. 8. *And be it further enacted*, That in future the overseers of the poor shall levy the poor rates in specie only.

Repealing clause.

SECT. 9. So much of all and every act as comes within the purview of this act, shall be and is hereby repealed.

CHAP. XXI.

An act authorising the treasurer of this Commonwealth to subscribe for certain shares in the Dismal Swamp Canal Company.

(Passed November 21st, 1791.)

Treasurer to subscribe for fifty shares in the Dismal Swamp Canal Company,

SECT. 1. *BE it enacted by the General Assembly*, That the treasurer of this Commonwealth shall be authorised and directed to subscribe in behalf of the same, to the amount of fifty shares in the Dismal Swamp Canal Company, and the money necessary in consequence of such subscription, shall be paid to the order of the president and directors of the Dismal Swamp Canal Company, in the same proportion as shall be required from individual subscribers.

to vote in meetings of the company, and receive the state's proportion of the tolls.

SECT. 2. And the treasurer for the time being, shall have a right to vote according to such shares, in person, or by proxy, appointed by him, at the meetings of the said company, and shall receive the proportion of the tolls which shall from time to time become due to this state from the shares aforesaid.

SECT. 3. This act shall commence and be in force from the passage thereof.

CHAP. XXII.

An act concerning the salary of the Register of the land-office.

(Passed November 25th, 1791.)

Preamble.

WHEREAS, the act appropriating the fees of the land-office in aid of the public revenue, and placing the

register, his deputies and assistants on the civil list, and also one other act, intituled, "An act for regulating and fixing the salaries of the officers of civil government," provide, that the register of the land-office shall have and receive the sum of eight hundred pounds per annum in lieu of the allowance before that time established by law. And whereas the district of Kentucky is about to be erected into a separate, distinct, and independent state, from and after the first day of June next ensuing, whereby the duties of the register will be much lessened; *Be it therefore enacted by the General Assembly*, That from and after the said first day of June, the register shall be allowed the sum of four hundred pounds per annum, in lieu of the allowance heretofore made by law, for performing the duties of the said office, and no more.

Salary of the register after the first of June next.

CHAP. XXIII.

An act for the regulation of Ferries.

(Passed December 15th, 1791.)

SECT. 1. *BE it enacted*, That all ferries heretofore established, and which have been wholly disused and unfrequented for the space of two years, shall be, and the same are hereby discontinued, unless the persons entitled to keep the same, shall within the space of twelve months after the passing of this act, procure all necessary boats and ferrymen for the transportation of passengers at their respective ferries.

Ferries which have been or may be disused for two years discontinued.

SECT. 2. All ferries now established, and which may be hereafter disused and unfrequented for the space of two years, shall be likewise discontinued, unless necessary boats and ferrymen are prepared for the same within the space of six months after the expiration of the said two years.

Ferries hereafter established and not provided with boats &c. in six months, or disused for two years discontinued.

SECT. 3. And all ferries which may be hereafter established, and which shall not be furnished with necessary boats and ferrymen within the space of six months after the establishment thereof, or shall at any time thereafter be wholly disused and unfrequented for the space of two years, shall be, and the same are hereby discontinued.

County courts to summon proprietors and hear complaints.

Exception as to the district of Kentucky.

SECT. 4. And it shall be lawful for the court of the county in which such ferry or ferries shall be, on complaint to them made, to summon the proprietor or proprietors of the same, to shew cause why it shall not be discontinued, and to decide according to the testimony adduced. Nothing contained in this act shall extend to the district of Kentucky.

CHAP. XXIV.

An act to amend the act, intituled, "An act for the better securing certain debts within mentioned, due and owing to the Commonwealth."

(Passed December 6th, 1791.)

Preamble.

SECT. 1. WHEREAS it is represented to the present General Assembly, that doubts have arisen whether tobacco can be received at the treasury in discharge of the bonds given to the commissioners appointed under the act of the last session, intituled, "An act for the better securing certain debts within mentioned, due and owing to the Commonwealth:" For remedy whereof,

Tobacco to be received in discharge of certain debts due to the state.

Be it enacted, That the treasurer of this Commonwealth shall be, and he is hereby authorised and directed to receive crop or transfer tobacco in discharge of the said bonds, at the same rates and under the same restrictions, as are prescribed in the admission of tobacco from sheriffs in discharge of the arrearages of the revenue taxes for the years one thousand seven hundred and eighty-two, and one thousand seven hundred and eighty-three; any law to the contrary thereof notwithstanding.

Commencement of the act.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XXV.

An act to amend the act concerning Pilots.

(Passed December 15th, 1791.)

Preamble.

Sect. 1. WHEREAS by an act passed at the October session, in the year one thousand seven hundred and eighty-six, intituled, "An act to amend and reduce into one act, the several acts for regulating pilots, and ascertaining their fees," certain persons were appointed to examine such as were desirous to be admitted pilots, previous to their undertaking that business: And it has been represented to the present General Assembly that the number of examiners appointed by the said recited act, has been reduced by death, resignation, or otherwise: *Be it therefore enacted*, That James Cunningham, Francis Ballard, John Parish, and Edward Rudd, shall be, and they are hereby added to the remaining examiners appointed by the said act, and shall exercise the duties of their office in manner therein prescribed: *Provided*, That every examiner shall previously take an oath in some court of record within this Commonwealth, truly and impartially to discharge the duties of his office according to law.

Certain persons added to the examiners of pilots;

oath to be taken by them

Sect. 2. From and after the first day of March next, the pilots belonging to this Commonwealth shall be arranged into three distinct classes, and distinguished by the numbers first class, second class, third class. It shall be lawful for those pilots only who, in the opinion of the said examiners, are qualified to obtain a branch or permit in the first class, to take the charge and pilotage of every vessel of whatsoever burthen or description. Those arranged in the second class, shall be confined to the charge and pilotage of such vessels whose draft of water do not exceed twelve feet; and those arranged in the third class, shall be confined to the charge and pilotage of such vessels whose draft of water shall not exceed nine feet.

Pilots to be divided into classes.

Sect. 3. That on or before the first day of June next, every person who has obtained a branch to exercise the business of a pilot, shall return the same to the examiners, who shall thereupon deliver a new branch without fee or reward. Any pilot failing to renew his branch

To return their branches and take out others.

agreeable to this act, shall be disqualified from acting as a pilot, and may be removed from any ship or vessel by any pilot, having a branch agreeable to this act.

Branches to be granted only to those who have been apprentices to pilots.

SECT. 4. Every application to the examiners in future for a branch, shall be accompanied with proof that the person applying has served as an apprentice to a branch pilot for the term of five years at least, and that he is an inhabitant of this state.

Pilots removing out of the state to be disqualified.

SECT. 5. Every person obtaining a branch, and afterwards removing into another state, shall thereupon be disqualified and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence, as is imposed by this act on such as violate the terms of their branch and respective class, to be recovered in like manner.

Pilots may give copies of their branches to their apprentices.

SECT. 6. *And be it further enacted*, That when any branch pilot shall have an apprentice, that in the opinion of such branch pilot shall be qualified to take charge and pilot a vessel, it shall be lawful for such branch pilot to give to his apprentice or apprentices a copy of his branch, and indorse thereon the name of the pilot-boat and the port to which she belongs, distinguishing the ability of the apprentice by classes as aforesaid; after which it shall not be lawful for any branch pilot to take from such apprentice any vessel he may have in charge.

Mode of suspending and disqualifying pilots.

SECT. 7. In case of misconduct or misbehaviour in any pilot in the exercise of his business, it shall be lawful for the examiners to suspend him; and if on examination before the next succeeding court of his county, the court shall be of opinion that such misconduct or misbehaviour is sufficiently proven, they shall cause the same to be certified to the examiners, and the person shall thenceforth be altogether disqualified, and cease to act as a pilot.

Name of every pilot boat to be painted on the foresail.

SECT. 8. Every pilot boat, the owner whereof hath or shall obtain a branch or permit in this state, shall have, ten feet below the head of the foresail, and on each side thereof, the name of such boat and the port to which she belongs, painted in letters of not less than nine inches in length.

Repealing clause.

SECT. 9. So much of the said recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

CHAP. XXVI.

An act concerning the public Gaol in the city of Williamsburg, and for other purposes.

(Passed November 14th, 1791.)

Public gaol in Williamburg, to be used by the city, James City county, and the district court.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the passing of this act, the city of Williamsburg shall have a right to use the public gaol therein, as the gaol of the said city; and the district gaoler therein, shall act as keeper of the gaol of the said city. Nothing in this act shall alter or impair the right of the county of James City, or of the district wherein Williamsburg is, to the use of the said public gaol.

County gaolers, to act as gaolers of the district.

SECT. 2. *And be it further enacted*, That whenever the gaol of a county is used as a district gaol, the keeper of the county gaol, and no other, shall act as keeper of the goal of the said district; any act or part of an act to the contrary notwithstanding.

CHAP. XXVII.

An act for regulating the navigation of James River, above the falls of the said river.

(Passed December 17th, 1791.)

Number of every boat and owner's name, and residence to be painted on it, and entered in the clerk's office

SECT. 1. *BE it enacted*, That every person who shall be proprietor of any boat or other vessel, which shall be employed in navigating the waters of James river and its branches above the great falls at Richmond, in the transportation of any produce or merchandise whatsoever, either raised or manufactured within this Commonwealth, or imported from any other place without the same, shall in the clerk's office of the county in which the said proprietor or proprietors shall then live, enter the number of each boat or vessel so to be employed, which number, together with the name of the county, and the name of the owner or owners of such boat or vessel, shall be written or painted on each side of the said vessel, on some conspicuous part of the outside

thereof, in large and plain letters, not less than four inches in length.

Penalty for failure.

SECT. 2. If the owner or owners of any boat or vessel, which shall be employed in navigating the waters of the said river, above the falls thereof as aforesaid, shall fail to enter in the clerk's office as aforesaid the name or names of the owner or owners, the name of the county in which he or they shall reside, and the number of each boat or other vessel as aforesaid, or shall fail to write or paint the name or names of the owner or owners of the said boat or other vessel in manner above directed, so as to continue plain and legible as long as the said boat or other vessel shall be employed in navigation, he, she, or they shall forfeit and pay the sum of twenty shillings for every day he, she, or they shall neglect to comply with the purposes of this act, to be recovered by any person who may sue for the same, by warrant from a magistrate, allowing the said owner or owners one month after the first day of April next, to attend to the requisitions aforesaid.

Commencement of the act.

SECT. 3. This act shall commence and be in force after the first day of April next.

CHAP. XXVIII.

An act concerning the reassessment of the lands in Amelia and Nottoway.

(Passed December 9th, 1791.)

Preamble.

SECT. 1. WHEREAS by virtue of an act, intituled, "An act for reassessing the lands in the counties of Amelia and Nottoway," a revaluation hath been made of all the lands included in the county of Amelia before the late division thereof, and now included in the counties of Amelia and Nottoway, and a book containing the valuation of the said lands hath been laid before the General Assembly pursuant to the directions of the above recited act: *Be it therefore enacted*, That two copies of the said book of accounts, so far as it respects each county, shall on or before the twentieth day of February next, be made out by the clerk of the house of delegates, one

Copies of the valuation to be sent to the commissioners of the land

of which copies he shall transmit to the commissioner of the tax for the county of Amelia, and one other copy to the commissioners of the tax for the county of Nottoway; and the said original book of accounts he shall transmit to the auditor of public accounts; and the said commissioners and auditor of public accounts, are hereby respectively required and directed to grant receipts for the same. And each of the said county commissioners, are hereby required and directed to cause a copy of the book thus delivered to each, to be delivered to the sheriff of his respective county on or before the first day of April next; by which the sheriff shall proceed to collect from every person named therein, the same per centum on the sum charged in the said book as is paid by the other counties of this state on the sums respectively charged in their books of accounts, and no more.

tax; the original to be delivered to the auditor, and copies to the sheriffs.

SECT. 2. *And be it further enacted*, That the valuation contained in the said books shall hereafter be deemed and taken as the valuation and assessment of the lands in the said counties of Amelia and Nottoway on which the land tax is to be imposed and collected; and the commissioners of the said counties shall respectively take the same for their future guide and direction, and in every respect they are to be governed by the same rules and regulations, and to be subjected to the same penalties as are prescribed for the commissioners of the tax in the other counties of this state.

To be deemed in future the valuation of the lands in the said counties.

SECT. 3. This act shall commence and be in force from the passing thereof.

Commencement of the act.

CHAP. XXIX.

An act to revive the inspection of Tobacco at Crutchfield's in Hanover-town.

(Passed December 13th, 1791.)

SECT. 1. *BE it enacted by the General Assembly*, That the inspection of tobacco at Crutchfield's, in Hanover-town, shall be, and the same is hereby revived and established.

Inspection at Crutchfield's revived.

Inspector's salaries. Warehouse to be built by the proprietor. To be discontinued, if the tobacco will not pay the charges.

SECT. 2. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of sixty pounds for their salary. The proprietor of the said warehouse shall build the same at his own expence, and if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

SECT. 3. This act shall commence and be in force from the passage thereof.

CHAP. XXX.

An act to establish an inspection of Tobacco in the county of Woodford.

(Passed December 3d, 1791.)

Inspection established at Frankfort.

Warehouse to be built by the proprietor.

Inspectors salaries.

To be discontinued if the tobacco will not pay the charges.

SECT. 1. *BE it enacted by the General Assembly*, That an inspection of tobacco shall be, and the same is hereby established on the lands of James Wilkinson, at Frankfort, in the county of Woodford, to be called and known by the name of Frankfort warehouse; the proprietor whereof shall build the same at his own expence.

SECT. 2. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of twenty-five pounds for their salary.

SECT. 3. If the quantity of tobacco inspected at the said warehouse, shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

SECT. 4. This act shall commence and be in force on the first day of January next.

CHAP. XXXI.

An act for establishing several inspections of Tobacco.

(Passed the 7th of December, 1791.)

SECT. 1. *BE it enacted by the General Assembly*, That inspections of tobacco shall be, and they are hereby established at the following places, to wit: On the lands of John Lynch, at his ferry in the county of Amherst, to be called and known by the name of Amherst warehouse; on the lands of Richard Booker, at Booker's ferry, on Stanton river, in the county of Halifax, to be called and known by the name of Booker's warehouse; and on the lands of John Horseley, at the mouth of Bent creek, in the county of Buckingham, to be called and known by the name of Horseley's warehouse; the proprietors whereof shall build the same at their own expense.

Inspections established at Lynch's ferry, at Booker's ferry, and at the mouth of Bent creek. Warehouses, by whom to be built.

SECT 2. There shall be allowed and paid annually to each of the inspectors at Amherst warehouse, the sum of thirty pounds; to each of the inspectors at Booker's warehouse, the sum of forty pounds; and to each of the inspectors at Horseley's warehouse, the sum of thirty pounds, for their salaries.

Inspectors salaries.

SECT. 3. If the quanitity of tobacco inspected at the said warehouses shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

To be discontinued if the tobacco does not pay the charges.

SECT. 4. This act shall commence and be in force on the first day of January next.

CHAP. XXXII.

An act concerning the inspection of Tobacco at Trent's warehouses.

(Passed December 6th, 1791.)

SECT. 1. WHEREAS by an act of Assembly passed in the year one thousand seven hundred and eighty-eight,

Preamble.

intituled, "An act for establishing an inspection of tobacco on the lots of Alexander and Peterfield Trent, in the town of Manchester," It is provided, that no tobacco shall be received for inspection at the said warehouses, nor any inspectors be appointed for the same, until the court of Chesterfield county shall be of opinion, and enter the same of record, that the proprietors have built the said warehouses according to the directions of the said act; And whereas it is represented to this present assembly, that part of the buildings have been erected and completed, so as to contain a considerable quantity of tobacco, and others are in great forwardness, and it will be of public utility to open the inspection at the said warehouses:

Inspection to be opened at Trent's warehouses.

Be it therefore enacted, That an inspection of tobacco shall be, and the same is hereby established at the said warehouses, in like manner as if the same had been built pursuant to the directions of the said recited act; any law to the contrary thereof notwithstanding.

Commencement of the act.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XXXIII.

An act concerning the slopes in the mill dams on the south branch of Patowmac river.

(Passed November 25th, 1791.)

Commissioners to be appointed to examine slopes in the mill dams.

BE it enacted by the General Assembly, That the courts of the counties of Hampshire, Hardy and Pendleton, shall, and they are hereby empowered and required, from time to time, to appoint so many commissioners as they may judge proper, to examine the slopes made in the mill dams on the south branch of Patowmac river, and make report to the said courts whether in their opinion the same are constructed in such a manner as to answer the purposes intended by the act, intituled, "An act for improving the navigation of the south branch of Patowmac river."

CHAP. XXXIV.

An act to amend the act, intituled, "An act to amend the act, intituled, An act for opening and extending the navigation of Patowmac river."

(Passed November 21st, 1791.)

Preamble.

SECT. 1. WHEREAS on application of the president and directors of the Patowmac company, an act was passed during the last session of the General Assembly, which among other things, did grant to the said company, the right to open, extend and improve the navigation of the branches of the Patowmac river above Seneca, which grant was made from an expectation that the said company would proceed forthwith in improving the navigation of the said branches: *Be it therefore enacted by the General Assembly*, That the said grant shall be forfeited, unless the company aforesaid proceed within twelve months from the date hereof, in the opening and improving the navigation of the said branches.

Right to improve the navigation of the branches forfeited unless it is begun within twelve months.

SECT. 2. *And be it further enacted*, That it shall and may be lawful for persons not citizens of this commonwealth to purchase and hold the subscribed as well as the non-subscribed shares of the Patowmac company. *Provided*, That the persons so purchasing, shall not thereby become citizens of this commonwealth.

Persons not citizens may purchase subscribed shares

CHAP. XXXV.

An act to appoint commissioners to examine Banister river.

(Passed December 16th, 1791.)

BE it enacted by the General Assembly, That Matthew Clay, Thomas Watkins, John Wilson, George Adams, David Hunt, William Todd, Robert Williams, Haines Morgan, Stephen Coleman, James Anderson, Beverley Barksdale, and John Markham, gentlemen, or a majority

Commissioners appointed to examine obstructions to the passage of fish up the river.

of them, shall, and they are hereby required to examine the obstructions to the passage of fish in Banister river, beginning at M'Daniel's mill, and inquire if the obstructions were removed, whether the fish which might pass up the said river, would be an object sufficient to justify the breaking down the mills built thereon, or to compel the owners to make slopes in their dams, and report their proceedings with their opinion thereupon to the next Assembly.

and make report to the Assembly.

CHAP. XXXVI.

An act for altering the quarterly court days in the county of Westmoreland, and for other purposes.

(Passed December 7th, 1791.)

When the quarterly courts shall be held in the counties of Westmoreland,

Cumberland,

King George,

and Hampshire.

SECT. 1. *BE it enacted by the General Assembly*, That courts of quarter session for the county of Westmoreland, appointed by law to be held in the months of March, August and November, shall, from and after the passing of this act, be held in the months of February, July and October, annually, instead thereof; that the courts of quarter session directed by law to be held in the county of Cumberland in the months of March, May, August and November, shall hereafter be held in the months of February, April, July and October annually, instead thereof; that the court of quarter sessions directed by law to be held in the county of King George in the month of May annually, shall hereafter be held in the month of June, instead thereof; and that the courts of quarter session for the county of Hampshire shall hereafter be held in the months of March, May, September and November, annually, instead of the months heretofore appointed by law.

Court days of Hampshire and Amherst counties.

SECT. 2. A court for the said county of Hampshire shall be held by the justices thereof on the last Tuesday in every month, instead of the Thursday after the second Tuesday. A court for the county of Amherst shall be held by the justices thereof on the third Monday in every

month, instead of the first Monday. Any law to the contrary notwithstanding.

SECT. 3. This act shall commence and be in force on the first day of January next. Commencement of the act.

CHAP. XXXVII.

An act for altering the time of holding a Quarterly Court in the county of Frederick.

(Passed December 16th, 1791.)

BE it enacted, That from and after the passing of this act, a court of quarter sessions shall be held for the county of Frederick in the month of June annually, instead of the court of quarter sessions which was heretofore held for the said county in the month of May annually. A quarterly court for the county of Frederick to be held in June annually

CHAP. XXXVIII.

An act to repeal in part an act, intituled, "An act for killing Crows and Squirrels in certain counties."

(Passed November 5th, 1791.)

BE it enacted by the General Assembly, That so much of the act, intituled, "An act for killing crows and squirrels within certain counties," as relates to the counties of Madison and Woodford, shall be, and the same is hereby repealed. The act, as to Madison and Woodford counties repealed.

CHAP. XXXIX.

An act for clearing Banister river.

(Passed December 1st, 1791.)

Preamble.

SECT. 1. WHEREAS extending the navigation of Banister river, from its confluence with Dan river up to M'Daniel's mill, will be of public utility: *Be it therefore enacted by the General Assembly*, That George Carrington, William Terry, Nathaniel Terry, William Thompson, Edmund King, William M'Daniel, Meadis Anderson, Francis M. Petty, and David Powell, gentlemen, be, and they are hereby constituted and appointed trustees for clearing Banister river, up to M'Daniel's mill, and they are respectively authorised and impowered to take and receive subscriptions for that purpose.

Trustees appointed for clearing the river, to receive subscriptions:

How to be recovered.

SECT. 2. If any person or persons shall neglect or refuse to pay the money subscribed for the purpose of this act, it shall and may be lawful for the trustees, or any five of them, to recover the same by motion in any court of record within this commonwealth, on giving reasonable notice thereof.

Duties of the trustees.

SECT. 3. The said trustees, or any five of them, shall have power and authority to contract and agree with any person or persons, for clearing the said river up to M'Daniel's mill, in such manner as to the said trustees shall seem most proper, and to remove all hedges, rocks or stops, which may in any wise obstruct the said navigation, taking bond with good security of the said persons, in a reasonable penalty to the said trustees, for the use of the subscribers, conditioned faithfully to perform the said agreement.

Receiver to be appointed,

SECT. 4. The said trustees, or any five of them, as often as they may see occasion, shall appoint one or more of their number, to be receiver or receivers of all monies that shall be subscribed for the purpose of this act;

who shall give bond and security.

and the person or persons so appointed, shall, in the court of the county where he or they reside, give bond with sufficient security, in a reasonable penalty, payable to this Commonwealth, with condition, that he or they, his or their heirs, executors or administrators, at all times when required, shall and will truly and faithfully account with the said trustees, for all monies, which shall come

to the hands of such receiver or receivers for the purpose of this act, and pay the same to such person or persons, as the said trustees, or any five of those who may act, shall order and direct.

How to be proceeded against for failing to account.

SECT. 5. Upon the refusal or neglect of the said receiver or receivers, to account for or pay the money by him or them received, according to the order and direction of the said trustees, it may be lawful for the trustees, or any five of them, to recover the same with interest and costs, by motion against the said receiver or receivers, and his or their securities, jointly or severally, in any court of record in this Commonwealth, giving ten days previous notice of such motion.

Penalty on person felling a tree into the river, or making hedge or stop therein.

SECT. 6. *And be it further enacted*, That if any person shall fall any tree, or make any hedge or stop in the said river, from the confluence with Dan river to M'Daniel's mill, after the first day of March next, or shall aid or assist in falling or making such tree, hedge or stop, the person so offending, shall, for every such offence, forfeit and pay the sum of fifty pounds, to be recovered with costs, by bill, plaint or information, in any court of record, in the names of the trustees, or their successors, for the use of the subscribers under this act, in the proportion to the sums by them respectively subscribed.

Vacancies in the trustees, how to be supplied.

SECT. 7. In case of the death, resignation or removal out of the county of Halifax, or other legal disability of any one or more of the said trustees, it shall and may be lawful for the surviving or remaining trustees, or any five of them, from time to time, to elect others in their stead, so as to keep up the number of nine; and the trustees so chosen, shall be vested with the same power and authority, as any others in this act particularly named.

Commencement of the act.

SECT. 8. This act shall commence and be in force from the passing thereof.

CHAP. XL.

An act concerning the poor of the parish of Suffolk, in the county of Nansemond.

(Passed December 12th, 1791.)

Preamble.

SECT. 1. WHEREAS it is represented to this present General Assembly, that considerable donations have been made for the support of the poor of the parish of Suffolk, in the county of Nansemond, and that such donations have been applied to the relief of the poor in general in the said county, contrary to the intention and design of those who made the said donations: *Be it therefore enacted*, That the overseers of the poor within the district of the said parish, or a majority of them, shall meet at such convenient place as they or a majority of them shall appoint, on the third Monday in September annually, and then and there adjust and settle the charges of supporting the poor in the said parish, separate and distinct from the rest of the county, and to levy and assess upon the taxables therein, subject to county levy, the amount of the poor rate, under the like rules and regulations, and to be collected, accounted for and paid in the same manner, and under the like penalties as are directed, prescribed, and inflicted by the several laws respecting the poor in the several counties within this Commonwealth.

Poor of Suffolk parish, how to be provided for.

Repealing clause.

SECT. 2. So much of all and every act or acts as comes within the purview of this act, is hereby repealed.

Commencement of the act.

SECT. 3. This act shall commence and be in force from and after the first day of January next.

CHAP. XLI.

An act to authorise Francis Thornton to build a Toll Bridge across Rappahannock river.

(Passed December 7th, 1791.)

Francis Thornton authorised to

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for Francis Thornton, his

heirs and assigns, to erect a bridge across Rappahannock river, from any part of his lands in the county of Spotsylvania, opposite to the town of Falmouth. build a toll bridge across Rappahannock river:

Sect. 2. *Provided always, and be it further enacted,* That the damages which the persons holding lands may sustain, by means of building the said bridge adjoining to or upon their lands, as well as damages, that persons holding lots adjacent to the said bridge may sustain, by opening a way to the same, shall be previously valued by a jury, in the same manner as is directed by law in the case of public squares in the city of Richmond, and such valuation paid to the proprietors. to make compensation to owners of lots for injuries done thereto.

Sect. 3. *Provided also,* That this act shall not be construed to give the said Francis Thornton, his heirs or assigns, a right to take any part of an improved lot or lots in the town of Falmouth, adjacent to the said river.

Sect 4. So soon as the said bridge shall be completed, it shall be lawful for the said Francis Thornton, his heirs and assigns, to demand and receive the following rates, or tolls, that is to say: The price for a man, three pence, for a horse the same; for every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise or chair, the same as for two horses; for every hogshead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat or lamb, one fifth part of the toll for one horse; and for every hog, one fourth part of the toll for one horse. And if the said Francis Thornton, his heirs or assigns, shall demand and receive from any person or persons whatsoever, any greater rates than are hereby allowed, he or they shall for every such offence, forfeit and pay to the party aggrieved, the rates received, and ten shillings; to be recovered with costs, before a justice of the peace of the county where the offence shall be committed. Rates for passing the bridge.

Sect. 5. The said bridge shall be so constructed, that the navigation of the said river may not thereby be injured or affected, nor shall any stops or other obstructions to the passage of fish be placed or fixed at or near the said bridge, under the penalty of one hundred pounds; to be recovered by bill, plaint or information, in any court of record within this Commonwealth; one half to the use of the informer, the other to the use of the Commonwealth. Not to place in the river obstructions to the navigation or the passage of fish.

Bridge to be built within a limited time.

SECT. 6. *And be it further enacted*, That if the said Francis Thornton, his heirs or assigns, shall not begin to build the said bridge within two years, or shall fail to complete it in seven years, or after the completion thereof, shall neglect to keep the same in proper condition for convenient passage, during the space of two years, he, or they, shall thenceforth be deprived of the benefit of this act.

CHAP. XLII.

An act to establish a ferry across the mouth of Wheeling creek, in the county of Ohio.

(Passed December 16th, 1791.)

Ferry established across Wheeling creek.

SECT. 1. *BE it enacted by the General Assembly*, That a public ferry shall be constantly kept at the following place, and the rates for passing the same as followeth; that is to say: From the land of James Caldwell, in the county of Ohio, across the mouth of Wheeling creek, to the land of Ebenezer Zane, on the opposite shore, for a man two pence, and for a horse the same. And for the transportation of wheel carriages, tobacco, cattle, and other beasts, at the place aforesaid, the ferry keeper may demand and take the same rates as are by law established at other ferries.

Rates.

Penalty on ferry-keeper demanding more than the legal rates.

SECT. 2. If the ferry keeper shall demand or receive from any person or persons whatsoever, any greater rates than are hereby allowed for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party grieved, the ferriage demanded or received, and ten shillings; to be recovered with costs before a justice of the peace of the county where the offence shall be committed.

CHAP. XLIII.

An act to establish several new Ferries, and discontinue a former one.

(Passed December 9th, 1791.)

SECT. 1. *BE it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same are hereafter mentioned, that is to say: From the land of Cornelius Brown, in the county of Montgomery, across New river, to his land on the opposite shore, the price for a man three pence, and for a horse the same; from the land of Samuel Pepper, known by the name of Buffaloe Pond, in the county of Montgomery, across New river, to his land on the opposite shore, the price for a man three pence, and for a horse the same; from the lands of the representatives of Edward Duling, deceased, in the occupation of Edmund Martin, in the county of Ohio, across Ohio river to the opposite shore, the price for a man four pence half-penny, and for a horse the same; from the lands last mentioned, across the mouth of Fishing creek, to the lands of Robert Woods, on the lower side of the said creek, the price for a man two pence, and for a horse the same; from the land of Robert Woods, in the county of Ohio, across Ohio river to the opposite shore, the price for a man four pence half penny, and for a horse the same; from the land of the said Robert Woods across the mouth of Fishing creek to the lands of Edward Duling, deceased, the price for a man two pence, and for a horse the same; from the land of Gustavus Scott, whereon Hawkins Stone liveth, in the county of Stafford, across Patowmac river, to the lands of Clement Kennedy, in the state of Maryland, the price for a man two shillings, and for a horse the same; from the land of Benjamin Edwards, at the mouth of Goose creek, in the county of Loudon, across Patowmac river, to the lands in the occupation of John Baptist Pierce, on the opposite shore, in the state of Maryland, the price for a man four pence, and for a horse the same; from the land of John Hooe, in the county of Prince William, across Occoquan river, to the Old warehouse, on the lands of the late John Semple, in the county of

Ferries established

across New river,

New river,

Ohio,

Fishing creek,

Ohio,

Fishing creek,

Patowmac,

Patowmac,

Occoquan,

Fairfax, the price for a man three pence, and for a horse the same; from the land of George Hollinbough, in the
Monongahela, county of Monongalia, across Monongahela river, to the land of Asay Holl, on the opposite shore, the price for a man three pence, and for a horse the same; from the land of Thomas Lewis, in the county of Kanawha, across
Ohio, Ohio river, to the land of Isaac Guyan, on the opposite shore, the price for a man four pence half-penny, and for a horse the same; from the land of the said Thomas
Kanawha, Lewis, across the Kanawha river, to the land of Robert Henderson, on the opposite shore, the price for a man four pence, and for a horse the same; from the land of
Cumberland, Joseph Martin, in the county of Lincoln, across Cumberland river, to the land on the opposite shore, claimed by William Hord, the price for a man one shilling and six pence, and for a horse the same; from the land of
Monongahela, Dudley Evans, in the county of Monongalia, across Monongahela river, to the lands of George Wilson, the price for a man three pence, and for a horse the same; and from the land of John Collins, in the county of Monon-
Monongahela, galia, at the mouth of Robinson's run, across Monongahela river, to the lands of Jesse Martin, on the opposite shore, the price for a man three pence, and for a horse the same.

Rates. SECT 2. And for the transportation of wheel carriages, tobacco, cattle and other beasts, at the places aforesaid, the ferry keepers may respectively demand and take the following rates, to wit: For every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four wheel chaise, and the driver thereof, the same as for four horses; for every two wheel chaise or chair, as for two horses; for every hogshead of tobacco, as for one horse; for every head of neat cattle, as for one horse; for every sheep, goat lamb or hog, one-fifth part of the ferriage for one horse, and no more.

Penalty on ferry keeper receiving more than the legal rates. SECT. 3. If the ferry keeper at either of the places aforesaid, shall demand and receive from any person or persons whatsoever, any greater rates, than are hereby allowed for the ferriage or carriage of any thing, he shall for every such offence forfeit and pay to the party grieved, the ferriages demanded and received, and ten shillings; to be recovered with costs, before a justice of the peace of the county where the offence shall be committed.

SECT. 4. *And be it further enacted*, That the ferry heretofore established from the land of Dudley Evans, to the lands of Rees Bullock, shall be henceforth discontinued. Evans's ferry discontinued.

CHAP. XLIV.

An act to amend in part an act for opening the navigation of Blackwater river, from Little-Town on the said river, to Broadwater Bridge.

(Passed December 15th, 1791.)

SECT. 1. *BE it enacted by the General Assembly*, That the male labouring tithables appointed to work in clearing Blackwater river, shall not be required by the surveyor, nor shall they be compelled to work in clearing the same, more than ten days in any one year. Tithables to work on the river ten days in each year.

SECT. 2. The courts of the counties of Southampton and Isle of Wight, are hereby respectively empowered, upon good cause shewn, to remit any penalty incurred, or fine imposed on any surveyor, by virtue of the act, intituled, "An act for opening the navigation of Blackwater river, from Little town on the said river, to Broadwater bridge." County courts may remit fines on the surveyors.

SECT. 3. This act shall commence and be in force from and after the passage thereof. Commencement of the act.

CHAP. XLV.

An act giving further time for opening and completing certain roads.

(Passed December 10th, 1790.)

SECT. 1. *BE it enacted by the General Assembly*, That the further time of one year, from and after the passing of this act, shall be allowed the commissioners for opening and completing the two roads, the one from Further time allowed for completing the roads.

the state road to the mouth of the Little Kanawha, and the other from the state road to the mouth of Fishing creek, on the Ohio river.

Taxes due in certain counties to be paid to the commissioners for that purpose.

SECT. 2. *And be it further enacted*, That it shall be lawful for the commissioners appointed to open the said roads, to demand and receive from the sheriffs or collectors of the counties of Ohio, Randolph, Monongalia and Harrison, respectively, so much of any taxes now due, as will be sufficient to complete the opening of the said roads. *Provided*, the sums to be received by the said commissioners shall not exceed in the whole, the sum of two thousand pounds.

SECT. 3. This act shall commence and be in force from and after the passage thereof.

Arrearages heretofore appropriated to be first received.

SECT. 4. *Provided also*, That nothing herein contained shall authorise the sheriffs or collectors of the revenue in the said counties, to pay to the commissioners any part of the taxes which became due since the thirty-first day of October, one thousand seven hundred and ninety, until the commissioners shall have actually received from the sheriffs or collectors, all the arrearages of taxes that remain unpaid and heretofore appropriated for the completion of the said roads, and the sum to be received by the commissioners shall not, together with what they have already received, exceed the sum of two thousand pounds.

The whole sum received, and to be received, not to exceed 2000l.

CHAP. XLVI.

An act to amend the act for opening and improving the navigation of Mattapony river.

(Passed December 7th, 1791.)

Preamble.

SECT. 1. WHEREAS it is represented by the trustees appointed by the act, intituled, "An act for opening and improving the navigation of Mattapony river," that the number of the said trustees is so numerous and dispersed, as to obstruct the objects of the said act; that the board of trustees are not sufficiently responsible to subscribers for opening the said river to induce individuals to risk their money; that no power is given to the

said trustees to establish a fund and to divide the same into shares, and that no adequate forfeitures are inflicted if hedges or stops should be erected to obstruct the navigation of the said river, after it has been opened as the law directs: For remedy whereof, *Be it enacted by the General Assembly*, That the number of trustees in, and by the said recited act appointed, shall be reduced to eleven, to wit: Edmund Pendleton, Francis Corbin, John Baylor, Edmund Pendleton, junior, John Hoomes, Mungo Roy, John Taylor, Nathaniel Burwell, Joseph Hilliard, junior, James Pendleton, and Thomas Martin, any five of whom, or of their successors, shall be a board sufficient to act; that the said trustees shall hold their places for the term of two years only, from the first day of January next, and that new trustees shall be every two years elected by the subscribers holding a majority of shares, each subscriber giving one vote for every share he possesses, and voting either in person or by proxy. *Provided*, That until an election shall be made from time to time, by those holding the said shares, or a majority thereof, the former trustees shall continue to act, although their two years may have expired.

Number of trustees reduced to eleven.

Five to constitute a board.

New trustees, when to be appointed.

SECT. 2. All suits by or against the said trustees, shall be in the names of them and their successors; nor shall any suit abate on the going out of office of any trustee or trustees, by death, resignation, or otherwise, but shall proceed for the benefit of the trust, or party suing, to judgment and execution, as if no change had taken place.

Suits how to be instituted by and against them.

SECT 3. The said trustees shall have power to direct subscriptions to be made for so many shares, at the rate of five pounds for each share, as they shall deem adequate to the purposes of the said recited act.

Trustees to receive subscriptions.

SECT. 4. *And be it further enacted*, That if any person shall make or erect any hedge or stop in any part of the said river after the first day of January next, or shall aid or assist in making or erecting any such hedge or stop, the person so offending, shall for every such offence forfeit and pay the sum of one hundred pounds; to be recovered with costs, by bill, plaint, or information, in any court of record, in the names of the trustees and their successors, for the use of those intitled to the tolls in the said recited act mentioned, at the time of such recovery.

Penalty on any person placing bedges, &c. in the river.

SECT. 5. *And be it further enacted*, That no person or persons, except the said trustees and their successors, shall be permitted to sue for the penalty by the said re-

Trustees only to sue for penalties for fell-

ing trees into the river.

cited act inflicted, for felling any tree into the said river; but that the said trustees may also sue for and recover the said penalties for the use of those intitled to the tolls in manner aforesaid.

To appoint a clerk, & keep a record of their proceedings

SECT. 6. *And be it further enacted*, That the said trustees and their successors shall be permitted to appoint a clerk, and to keep a fair record of their proceedings from time to time; which said proceedings at the end of every meeting, shall be signed by the members present, and attested by the clerk, and shall be admitted as evidence in any controversy between the trustees and those interested in the shares, or between the latter themselves.

Repealing clause.

SECT. 7. So much of the said recited act, and all other acts as is contrary to this, shall be and is repealed.

Commencement of the act.

SECT. 8. This act shall commence on the first day of January next.

CHAP. XLVII.

An act concerning the Nansemond tribe of Indians.

(Passed December 7th, 1791.)

Preamble.

SECT. 1. WHEREAS it was represented to the General Assembly, in the year one thousand seven hundred and eighty-six, that the Nansemond tribe of Indians had become so reduced in their number as not to exceed five persons, who, through old age, and bodily infirmities, were rendered unable to support themselves by labour, and for affording them relief, an act then passed, authorising a sale of their lands on which they resided in the county of Southampton, to a certain William Bennet, who having advanced them a small sum of money had contracted for the purchase thereof, but who departed this life insolvent, before he had complied with the conditions of the said contract: And whereas the said tribe of Indians have since the death of the said William Bennet, agreed to sell their said lands, containing about three hundred acres, to a certain Alexander M'Neill, and have made application to this Assembly for trustees to be appointed to join them in the conveyance thereof:

Be it therefore enacted, That James Wilkinson, Edwin Gray, John Thomas Blow, Thomas Edmunds, Benjamin Kirby, Josiah Vick, and Robert Goodwyn, gentlemen, are appointed trustees for the said Indians; and that they, or any five of them, shall, and they are hereby required and empowered, upon the said Alexander M'Neill's giving bond and sufficient security, to be approved of by the court of Southampton county, in a reasonable penalty, to pay to the said trustees, or their survivors, for the use of the said tribe of Indians, the amount of the consideration money, to join with the said Indians, or the major part of them, in conveying the said land to the said Alexander M'Neill in fee. *Provided nevertheless*, The said trustees may refuse to join in the said conveyance, if they, or any five of them, shall be of opinion that the said purchase money is not the full value of the said land. Trustees appointed to convey the lands belonging to the Nansemond Indians.

Sect. 2. The said trustees, or the survivors or survivor of them, shall out of the first monies coming to their hands from the said sale pay to the lawful representatives of the said William Bennet, deceased, the amount of the money which was advanced by him in his lifetime to the said tribe of Indians, with legal interest thereon to the time of such payment. The said trustees, or their survivors, shall apply five pounds of the residue of the said purchase money first (exhausting the interest) to the annual maintenance of each of the said Indians, so long as there be any of the said tribe living; and when the said tribe shall become extinct, the said trustees, or the survivors or survivor of them, shall thereupon pay so much of the purchase money and interest, as shall remain unapplied to the purposes aforesaid, into the public treasury. Purchase money, how to be applied.

Sect. 3. So much of any act or acts, as comes within the purview of this act, shall be, and the same is hereby repealed. Repealing clause.

CHAP. XLVIII.

An act adding part of the county of Henry to the county of Patrick.

(Passed November 30th, 1791.)

Part of Henry county added to Patrick.

SECT. 1. *BE it enacted by the General Assembly*, That all that part of the county of Henry, lying to the south of a line beginning one mile above Town creek, on the line dividing the counties of Franklin and Henry, and running thence a direct course to the North-Carolina line at the lower crossing of Crooked creek, a branch of Mayo river, shall be, and the same is hereby added to, and made part of the county of Patrick.

Public dues &c. in that part of Henry, how to be collected.

SECT. 2. It shall be lawful for the sheriff of the said county of Henry, to collect and make distress for any public dues or officers fees which shall remain unpaid by the inhabitants of that part of the said county of Henry, hereby added to the county of Patrick, and shall be accountable for the same in like manner as if this act had not been made.

CHAP. XLIX.

An act concerning the Academy in the county of Accomack.

(Passed December 3d, 1791.)

Certain persons added to the trustees of the academy.

SECT. 1. *BE it enacted by the General Assembly*, That Lyttleton Upshur and Peter Bowdoin, gentlemen, of the county of Northampton, shall be, and they are hereby constituted and appointed trustees of Margaret academy, in the county Accomack, in addition to the former trustees, and shall have the same power and authority as if they had been named in the act for establishing the said academy.

Vacancies, how to be supplied.

SECT. 2. In case of the death, resignation, or removal of any one or more of the trustees of the said academy, the vacancy thereby occasioned shall be sup-

plied by the election of a person resident in that county, in which the person did reside, in whose stead and place he was elected, so as thereby to keep up an equal number of trustees in each of the said counties of Accomack and Northampton.

SECT. 3. This act shall commence and be in force from and after the passing thereof. Commencement of the act.

CHAP. L.

An act to amend an act intituled, "An act to amend an act, intituled, An act appropriating one-sixth part of the Surveyors fees in the district of Kentucky to the use of the Transylvania seminary and for other purposes."

(Passed December 8th, 1791.)

SECT. 1. WHEREAS by an act of the last session, intituled, "An act to amend an act, intituled, An act appropriating one-sixth part of the surveyors fees in the district of Kentucky to the use of the Transylvania seminary, and for other purposes," the surveyors of the said district then in office, were directed and required to account for and pay one-sixth of the fees received by them annually, to the trustees of the Transylvania seminary: And whereas it is represented that several surveyors of the said district had resigned their offices before the passing of the said act, and cannot therefore be brought to account for, and pay the one-sixth of the fees accruing by virtue of their office: For remedy whereof, *Be it therefore enacted*, That all those surveyors in the said district, who were in office at the time of passing the act, intituled, "An act appropriating one-sixth part of the surveyors fees in the district of Kentucky to the use of the Transylvania seminary, and for other purposes," which passed on the thirteenth day of December, one thousand seven hundred and eighty-seven, or came into office thereafter, and resigned before the twentieth day of December, one thousand seven hundred and ninety, when the first recited act passed, shall account for, and pay the one-sixth part of the fees, which became due to them, Preamble. Certain surveyors in the district of Kentucky, to account for one-sixth of their fees to the trustees of the academy.

whilst in office, in like manner, and subject to the same penalties and recovery, as is directed and prescribed by the first recited act

Commencement of the act.

SECT. 2. This act shall be in force from and after the passing thereof.

CHAP. LI.

An act to amend the act, intituled, "An act for establishing an Academy, and incorporating the trustees thereof."

(Passed November 25th, 1791.)

Preamble.

SECT. 1. WHEREAS it is represented to this present General Assembly, that the present number of trustees of the Randolph academy, from their remote situation, are unable generally to attend to the urgent and peculiar concerns of the said academy: For remedy whereof, *Be it enacted*, That Benjamin Coplin, John W. Loffbury, Maxwell Armstrong, George Arnold, William Barkly, William Robinson, John Haymond, and James Arnold, gentlemen, shall be, and they are hereby constituted trustees of the Randolph academy, in addition to those appointed by the act "For establishing an academy, and incorporating the trustees thereof," and shall have the same powers and authority as if they had been particularly named in the said recited act.

Certain persons added to the trustees of the academy.

The chairman to call meetings when necessary.

SECT. 2. And it appearing that the eighth and ninth sections of the said recited act are insufficient for the purposes thereby intended, *Be it therefore further enacted*, That the chairman of the said academy shall have full power and authority to call a meeting of the said trustees, as often as to him may seem necessary and expedient; any thing in the said recited act to the contrary notwithstanding.

Commencement of the act.

SECT. 3. This act shall be in force from and after the passage thereof.

CHAP. LII.

An act to establish an Academy in the county of Powhatan, and incorporate the trustees thereof.

(Passed December 1st, 1791.)

Preamble

SECT. 1. WHEREAS the Scottville Lodge of Free Masons, have made application to this Assembly to pass an act authorising them to raise by way of lottery, a sum of money to be applied towards erecting a building in or near the town of Scottville, for the purpose of an academy, with a reservation of the upper story thereof to the use of the said lodge of Free Masons; and that trustees may be appointed and constituted a body politic and corporate, for the government of the said academy: *Be it therefore enacted*, That it shall and may be lawful for the Free Masons of the said lodge, to raise by way of lottery, a sum of money not exceeding one thousand pounds, for the purposes aforesaid, under the direction and management of John Pride, Edward Carrington, William Giles, senior, William Ronald, William B. Giles, Samuel Pleasants, William Fleming, Littleberry Mosby, senior, Richard Crump, William Bentley, Tarlton Woodson, Frederick Woodson, John K. Read, John Royall, James Henderson, James Worrall, William R. Fleming, Peter F. Archer, Wade Woodson, John Ligon, James Clarke, Brett Randolph, John Archer, and Joseph Eggleston, who are hereby constituted a body politic and corporate, by the name of "The trustees of the Scottville Lodge Academy;" and by that name shall have perpetual succession and a common seal.

Scottville lodge of Masons to raise a sum of money by lottery, under the direction of trustees for building an academy;

The trustees incorporated;

To meet and fix on a place for the academy.

SECT. 2. The said trustees shall hold their first session in the town of Scottville, on the twenty-seventh day of December next, and then, or as soon after as may be, fix on some convenient place for erecting the said academy. The said trustees, and their successors by the name aforesaid, shall be capable in law to purchase, receive and hold to them and their successors for ever, lands, tenements, rents, goods or chattels, of what kind soever, which shall be given, devised to, or purchased by them for the use of the said academy, and to sell, let or dispose of the same, in such manner as to them shall

Powers and duties of the trustees.

seem most beneficial for the said academy. The said trustees, by the name aforesaid, may sue and be sued, plead and be impleaded, in any court of law or equity. They shall have power from time to time, to make bye laws, and establish such rules and orders (not contrary to the laws and constitution of this Commonwealth) as they may judge necessary for the government of the said academy. They shall elect annually a chairman, treasurer, and clerk, and shall hold two stated sessions in every year at the said academy, at such times as they shall appoint, any seven of whom shall be a sufficient number to proceed to business, and execute the powers vested by this act in the trustees of the said academy. The chairman, upon the request of three or more of the said trustees, shall call a meeting.

Meetings of the trustees to be called by the chairman.

Concurrence of a majority of the trustees necessary to purchase or sell real estate.

SECT. 3. *Provided always, and be it further enacted*, That no real estate shall be purchased for the said academy, or disposed of, without the concurrence of a majority of the said trustees

Professors and officers of the academy, how to be appointed.

SECT. 4. It shall be lawful for the said trustees to appoint the professors and other officers of the said academy, and to supply vacancies by the death, resignation, removal from office, or other disability of any of the said trustees, professors, or other officers. The trustees, professors, and other officers, shall, before they enter on the execution of their respective duties of office, take the oath of fidelity to the Commonwealth, and an oath, that they will faithfully discharge the trust reposed in them. The said oaths shall be administered to the chairman, in the court of the county, and by the chairman to the other trustees, professors and officers.

Record to be kept of the proceedings of the trustees.

SECT. 5. The clerk shall make up a fair record of all the proceedings of the said trustees; which any trustee, professor, officer, or student of the said academy, shall have the liberty to inspect.

Duty of the treasurer of the academy.

SECT. 6. The treasurer shall receive all monies accruing to the said academy, and other property delivered or put in his care belonging thereto, and pay or deliver the same to the order of the trustees. He shall, before he enters on the execution of his office, give bond with sufficient security, in such sum as the trustees shall direct, payable to them and their successors, with a condition for the faithful discharge of the trust reposed in him, and that he will, when required by the said trustees,

render a just and true account of all monies, goods and chattels received by him, on account and for the use of the said academy.

CHAP. LIII.

An act concerning the corporation of the town of Petersburg.

(Passed December 10th, 1791.)

Common-hall to obtain the assent of a certain number of the electors before they can levy taxes for certain purposes.

SECT. 1. *BE it enacted by the General Assembly*, That whensoever the common hall of the town of Petersburg shall judge it necessary to purchase any lot or parcel of land for the use of the said town; to erect or repair any public buildings; to build or repair any wharf; to make any causeway; to sink common sewers or drains; to repair any street or road; to appoint watchmen, or to fix lamps to light the town, they shall appoint a day for the meeting of the freeholders and housekeepers of the said town, qualified by law to vote for members of the common hall, and give at least two weeks previous notice of the time and place of such meeting, by publication in the Gazette of the said town, or otherwise advertising the same in the most public places therein. If the freeholders or housekeepers, who meet the mayor, recorder, or eldest alderman, shall amount to the number of thirty, and they, or a majority of them, or the majority of a larger number that may meet, agree to adopt the measure proposed by the common hall, that then and in that case only, it shall be lawful for the common hall, to levy, assess, and collect a sum or sums of money, sufficient for those purposes, in like manner, as is directed for carrying into effect the other powers vested in the common hall. *Provided always*, that nothing herein contained, shall be deemed or taken to prevent or restrain the common hall from imposing and levying a tax within the said town, not exceeding the sum of one hundred pounds in any one year, for the purposes aforesaid, or such of them as they shall think necessary.

Day of election of the members changed.

SECT. 2. The election of members of the common hall of the said town, shall hereafter be made on the first

Monday in September annually, instead of the first Wednesday.

Repealing clause.

SECT. 3. So much of all and every act and acts, as comes within the purview of this act, is hereby repealed.

Commencement of the act.

SECT. 4. This act shall commence and be in force on the first day of January next.

CHAP. LIV.

An act to establish several Towns, and for other purposes.

(Passed December 7th, 1791.)

Towns of St. Tamany, in Mecklenburg;

SECT. 1. *BE it enacted by the General Assembly*, That fifty acres of land, the property of James Blanton, lying on Roanoke river, in the county of Mecklenburg, shall be, and the same are hereby vested in Samuel Hopkins, Samuel Goode, William Davis, William Baskerville, William Starling, Charles Davis, and Edward Davis, gentlemen, trustees, to be by them or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Saint Taminy.

George-town, in Goochland;

SECT. 2. That fifty acres of land, the property of George Payne, on James river, in the county of Goochland, shall be, and they are hereby vested in John Guerrant, jun. William R. Fleming, Joseph Watkins, John Curd, Thomas Royster, Isaac W. Pleasants, and Samuel Woodson, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of George-Town.

Madison, in Amherst;

SECT. 3. That fifty acres of land, the property of John Lynch, adjoining his ferry, in the county of Amherst, shall be, and the same are hereby vested in Samuel Meredith, Samuel Jordan Cabell, Ambrose Rucker, John Wiatt, Benjamin Rucker, David Woodrough, Powhatan Bolling, and David Tinsley, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half

an acre each, with convenient streets, and established a town, by the name of Madison.

Martinsville, in Henry;

SECT. 4. That fifty acres of land, belonging to the county of Henry, and lying around the courthouse of the said county shall be, and the same are hereby vested in George Waller, George Hairston, John Fontain, David Lanier, Alexander Hunter, Thomas Stovall, John Redd, Joseph Anthony, William Shelton, James Baker, and Joseph Bouldin, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Martinsville.

Keisell's-Town, in Rockingham;

SECT. 5. That one hundred acres of land, the property of George Keisell, in the county of Rockingham, as the same are now laid off into lots and streets, shall be established a town, by the name of Keisell's-Town; and that George Houston, George Carpinter, Martin Earheart, Peter Nicholass, John Snapp, John Swisher, and John Pierce, gentlemen, shall be, and they are hereby constituted trustees thereof.

Charlestown, in Ohio;

SECT. 6. That the lots and streets as the same are already laid off at the mouth of Buffaloe creek, on the Ohio river, in the county of Ohio, shall be, and the same are hereby established a town, by the name of Charlestown; and that William M'Mechan, Benjamin Biggs, George Cox, George White, James Marshall, James Griffith, John Green, John Connal, and Samuel Brown, gentlemen, are appointed trustees thereof.

Jerusalem, in Southampton;

SECT. 7. That ten acres of land adjoining the courthouse in the county of Southampton, the property of Joseph and William Scott, shall be, and they are hereby vested in Edwin Gray, James Wilkinson, Samuel Kello, Benjamin Blunt, Thomas Ridley, Benjamin Ruffin, Robert Goodwyn, and John Taylor, gentlemen, trustees, to be by them or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town, by the name of Jerusalem.

and Darksville in Berkeley, established.

SECT. 8. That the lots and streets as the same are already laid off in the county of Berkeley, the property of James Buckells, shall be, and the same are hereby established a town, by the name of Darksville; and that Andrew Waggener, James Strode, John Fryett, John Butler, John Chinworth, and Edward Fryett, gentlemen, are hereby constituted trustees thereof.

Lots when and how to be sold.

SECT. 9. So soon as the lands of the said James Blanton, George Payne, John Lynch, at Henry courthouse, and at Southampton courthouse, shall respectively be laid off into lots, the trustees of each, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of the sale of the said lots in the towns of St. Taminy, George-Town, Madison, Martinsville, and Jerusalem, shall be previously advertised two months in the Virginia Gazette, and convey the same to the purchasers thereof in fee, subject to the condition of building on each lot a dwelling house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale, and to pay the money arising from the sales of the said lots to the proprietors of the said lands respectively, or their legal representatives.

Conditions on which the lots are to be sold.

Powers of the trustees.

SECT. 10. The trustees of the said towns respectively, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein, as to them shall seem best, and to settle and determine all disputes about the bounds of the said lots.

Privileges of the purchasers of lots.

SECT. 11. So soon as the purchasers of lots in the said towns shall have built thereon according to the conditions of their respective deeds of conveyance, they shall then be entitled to, and have and enjoy, all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Lots forfeited on failure to perform the conditions of the purchase.

SECT. 12. If the purchaser of any lots in the towns of Saint Taminy, George-Town, Madison, Martinsville, Keisell's-Town, Charlestown, Jerusalem, and Darksville, or either of them, shall fail to build thereon, within the time herein before limited for that purpose, the trustees of the said town, where such failure shall happen, may thereupon enter into such lot, and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Ferry-house and landing not to be included in the town in Mecklenburg.

SECT. 13. *Provided always, and be it further enacted*, That it shall not be lawful for the trustees of the said town of St. Taminy, in the county of Mecklenburg, to include the ferry landing or house adjoining thereto, within the limits of the said town.

Improved lots in the town at Henry court-

SECT. 14. *Provided also*, That the trustees of the said town of Martinsville, at Henry courthouse, shall not sell

any of those lots on which buildings either public or private are erected. house not to be sold.

SECT. 15. *And be it further enacted*, That the owners of the water lots in the town of Portsmouth, are hereby authorised to lay off a water street in the town of Portsmouth, beginning at the north end of the said town, and running parallel with the other streets to the south end. *Provided nevertheless*, That private property shall not in any manner be injured, or affected by the laying off the said street, without the consent of the owner or owners thereof having been first obtained. Owners of water lots in Portsmouth to lay off a street.

SECT. 16. The act intituled, "An act to establish a town at the courthouse in the county of Buckingham," shall be, and the same is hereby repealed. Act establishing town of Greensville repealed. (See vol. 11. p. 29.)

SECT. 17. This act shall commence and be in force on the first day of January next.

CHAP. LV.

An act giving further time to the purchasers of lots in the town of Warminster to build thereon, and for other purposes.

(Passed December 8th, 1791.)

SECT. 1. WHEREAS the purchasers of lots in the town of Warminster, in the county of Amherst, from the difficulty of procuring materials, have not been able to build thereon, within the time prescribed by law: *Be it therefore enacted*, that the further time of two years, from and after the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same. Further time allowed for improving lots in the town of Warminster.

SECT. 2. *And be it further enacted*, That John Thruston, William Croghan, and Henry Read, gentlemen, or any two of them, be authorised and empowered to execute and exercise the powers vested in the trustees named in the act, intituled, "An act to explain and amend the several acts of Assembly concerning the town of Louisville, in the county of Jefferson, and for other purposes," in the same manner as the commissioners in the said act are directed and required. Trustees appointed for the town of Louisville

CHAP. LVI.

An act for adding trustees to the town of Patesfield, in the county of Isle of Wight.

(Passed December 9th, 1791.)

Certain persons added to the trustees of Patesfield.

BE it enacted by the General Assembly, That Francis Boykin, Benjamin Fley, John Scasbrooke Wills, James Wills, Thomas King, and George Benn, gentlemen, shall be, and they are hereby constituted and appointed trustees of the town of Patesfield, in the county of Isle of Wight, in addition to those appointed by the act, intituled, "An act for vesting certain lots and streets in the town of Patesfield in trustees, and for other purposes therein mentioned," and shall have the same power and authority, as if they had been particularly named in the said recited act.

CHAP. LVII.

An act giving further time to the purchasers of lots in the town of Charlestown to build thereon.

(Passed November 14th, 1791.)

Preamble.

WHEREAS the purchasers of lots in the town of Charlestown, in the county of Mason, from the difficulty of procuring materials have not been able to build on their said lots within the time prescribed by law: *Be it therefore enacted by the General Assembly*, That the further time of two years from the passing of this act, shall be allowed the purchasers of lots in the said town to build upon and save the same.

Further time allowed for improving the lots.

CHAP. LVIII.

An act concerning the marriage of Robert Turnbull.

(Passed December 10th, 1791.)

Preamble.

SECT. 1. WHEREAS a marriage was solemnized in the month of March, one thousand seven hundred and ninety, between Robert Turnbull, of the county of Prince-George, and Sarah Buchanan, of the county of Baltimore, and state of Maryland; and it has been represented, by the petition of the said Robert, that the said Sarah is wholly incapable of consummating the said marriage: And whereas there is no tribunal before which such fact can be inquired into, and which if ascertained, will by the common law render the said marriage null and void: *Be it therefore enacted*, That it shall and may be lawful for the said Robert to file his bill in the high court of chancery, setting forth the incapacity of the said Sarah for consummation, to the truth of which the said Robert shall make oath before some justice of the peace; whereupon a subpœna shall issue from the said high court of chancery, directed to the said Sarah, and commanding her to appear at the return day of the term next ensuing the filing the said bill, to answer the same, according to the rules of the said court; which said subpœna shall be served upon, or, the contents thereof read to the said Sarah, or if she shall not be found, a copy thereof shall be left at the last and usual place of abode of her the said Sarah, at least fifteen days before the return day aforesaid, and upon proof of the service of the said subpœna in manner aforesaid, if the said Sarah shall not appear and file her answer, according to the rules of the said court, an alias subpœna shall issue against the said Sarah, commanding her to appear in manner aforesaid, returnable to the succeeding term of the said high court of chancery; and if upon proof to the judge of the said court, that the said alias has been executed in manner aforesaid, and the said Sarah shall neglect to appear, the bill of the said Robert shall be taken for confessed, and the marriage aforesaid decreed to be null and void: *Provided*, that such decree shall not be final until three calender months shall have elapsed from the making the

Robert Turnbull authorised to file a bill in the court of chancery against his wife stating her incapacity for consummation.

Bill to be taken for confessed and the marriage decreed void in case she fails to appear and answer.

same, within which time the said Sarah may come in and file her answer to the bill of the said Robert; and if the said Sarah shall secrete or absent herself so that no process can be served upon her, upon proof thereof, in that case publication shall be made by order of the said court, and fixed at the door of the court-room, informing the said Sarah, that unless she shall enter an appearance and file her answer to the bill of the said Robert, within six months from the date of the said publication, the bill of the said Robert will be taken for confessed, and the marriage aforesaid decreed null and void; which publication shall also be made in some one of the Virginia Gazettes, at the costs of him the said Robert, for the space of six weeks: But if the said Sarah shall enter her appearance, and file her answer according to the rules of the said court, the said cause shall be immediately set for trial, and the court shall proceed to try the same the term next ensuing the filing the said answer, unless good cause be shewn to the contrary.

Publication to be made if process cannot be served.

Cause to be set for trial when her answer is filed.

The chancellor to direct the mode of trial and proof.

SECT. 2. *And whereas* from the nature of the case, the usual mode of proceedings in the said high court of chancery may be inadequate to the doing complete justice, the judge of the said court is, and shall be authorised to adopt such mode of trial and proof in the said cause, as he in his discretion shall think best adapted to come at the truth of the facts which shall be alledged in the bill of the said Robert; and if upon the trial of the said cause, the judge of the said court shall be satisfied that the facts stated in the bill of the said Robert are true, he shall decree the marriage aforesaid to be null and void; or if the said Sarah shall fail or refuse to submit to such modes of proof as the said judge shall in his discretion think fit and proper in the said cause, upon proof thereof, the bill of the said Robert shall be taken for confessed, and the marriage aforesaid decreed null and void.

And to decree the marriage void if the facts are proved; or if she refuses to submit to the trial, &c.

Commencement of the act.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. LIX.

An act for vesting eight hundred acres of land whereof Philip Lutz died seized, in Mary Cooper and her heirs.

(Passed November 16th, 1791.)

Preamble.

SECT. 1. WHEREAS it is represented to this Assembly, that Philip Lutz late of the county of Jefferson, died seized of eight hundred acres of land, lying and being in the said county of Jefferson, and that the said Philip died intestate, and without heirs, leaving Mary Lutz his widow, who hath since intermarried with a certain William Cooper: And whereas the said William Cooper and Mary his wife, have petitioned this Assembly, that the same may be vested in the said Mary Cooper and her heirs: *Be it therefore enacted*, That all the right, title, interest, claim and demand, which now exists in the Commonwealth, or upon any office hereafter to be found, shall be established therein, shall pass, descend and be vested in the said Mary Cooper and her heirs in fee simple.

Interest of the Commonwealth in certain land vested in Mary Cooper.

SECT. 2. *Saving nevertheless*, the rights legal and equitable of all and every person and persons, bodies politic or corporate, except of the Commonwealth and of those claiming under it, in and to the said eight hundred acres of land and every part thereof.

Rights of others saved.

CHAP. LX.

An act for vesting in John and Hillary Fentress, the interest which the Commonwealth hath in certain lands lying in the county of Norfolk.

(Passed December 16th, 1791.)

Preamble.

SECT. 1. WHEREAS a certain John Fentress did, by his last will and testament, duly proved and recorded in the county court of Norfolk, devise to his brother James

Fentress, a certain tract or parcel of land, lying in the said county of Norfolk; reserving to his mother Sophia Fentress, a life estate therein; which life estate was by her sold to and vested in a certain Robert Meggs; since which, the said Sophia Fentress hath departed this life: And whereas it is represented that the said James Fentress hath also departed this life, and by his last will and testament devised the said tract of land to his two infant sons, John and Hillary Fentress, notwithstanding which devise, the said Robert Meggs continues to hold and possess the said tract of land, under a pretext, that their said father James Fentress, held only a life estate therein, and that their uncle, under whom they claim, was a natural son, and having died without issue, the said land hath escheated to the Commonwealth for want of heirs capable of inheriting. And whereas application hath been made to this Assembly, in behalf of the said infants, by Grace Fentress, their mother and next friend, that the right of the Commonwealth in and to the said tract of land, may be released, and the same vested in the said John and Hillary Fentress, which is adjudged reasonable: *Be it therefore enacted*, That all the estate, right, title, interest, claim or demand, which now exists in the Commonwealth in and to the said tract or parcel of land, with its appurtenances, shall pass, descend and be vested in the said John and Hillary Fentress and their heirs, in such proportions as directed by the will of their said father James Fentress, deceased.

Interest of the Commonwealth in certain lands vested in John and Hilliary Fentress.

Sect. 2. *Saving nevertheless*, the rights legal and equitable, of all and every other person or persons, except of the Commonwealth, and those claiming under it, in and to the said tract of land and every part thereof.

Rights of others saved.

CHAP. LXI.

An act for giving further time to John Stewart to locate and survey certain lands.

(Passed December 7th, 1791.)

Sect. 1. WHEREAS it hath been represented to this General Assembly, that a certain Henry Stewart,

Preamble.

was in his lifetime intitled to a settlement and pre-emption right for fourteen hundred acres of land, lying in the district of Kentucky, which from his death descended to and became vested in John Steward, his heir at law, who was at that time an infant, and did not attain the age of twenty-one years, until the expiration of the act of Assembly passed in the year one thousand seven hundred and eighty-six, intituled, "An act for reviving, continuing and amending an act to revive and amend in part an act for giving further time to enter certificates for settlement rights, and for locating warrants upon pre-emption rights, and for other purposes:" And whereas it is also represented, that upon application being made by Joseph Irwin, in the year one thousand seven hundred and eighty-five, to the court of Fayette county, a certificate was issued in the name of the said John Stewart, and a warrant obtained thereon from the register of the land-office, which from an unforeseen cause, never came to his hands till some time after the expiration of the said recited act, whereby the said John Stewart hath been prevented from securing the said land: For remedy whereof, *Be it enacted*, That from and after the passing of this act, the further time of six months shall be allowed to the said John Stewart, for the purpose of locating and surveying the said fourteen hundred acres of land, to which he is intitled in right of his brother Henry Steward deceased.

John Stewart allowed further time for locating certain lands.

SECT. 2. *Provided nevertheless*, That nothing herein contained, shall be construed in any manner to affect the rights, legal or equitable, of any other person or persons in and to the said land, or any location upon the said land, subsequent to the expiration of the said recited act, and previous to the passing of this act.

Rights of others saved

CHAP. LXII.

An act to repeal the act authorising the executors of James Scott, deceased, to sell a part of his lands for the payment of his debts.

(Passed December 7th, 1791.)

WHEREAS it hath been represented to this General Assembly, that the act of Assembly passed in the year one thousand seven hundred and eighty-six, intituled, "An act to enable the executors of James Scott, deceased, to sell a part of his lands for the payment of his debts," hath been so far carried into effect as to render unnecessary any further continuance of the said recited act; *Be it therefore enacted*, That the act of Assembly, intituled, "An act to enable the executors of James Scott, deceased, to sell a part of his lands for the payment of his debts," shall be, and the same is hereby repealed: *Provided nevertheless*, That nothing herein contained shall be construed to affect or interfere with any payment, contract, or sale, which may have been made under the said recited act.

The act authorising Scott's executors to sell his lands repealed.

Sales, &c. under the said act not to be affected thereby.

CHAP. LXIII.

An act appropriating a sum of money for making certain repairs to the houses occupied by the Governor of this Commonwealth.

(Passed November 21st, 1791.)

SECT. 1. *BE it enacted by the General Assembly*, That the treasurer shall, out of any money in his hands, pay to the directors of the public buildings, the sum of two hundred and seventy-five pounds, or so much thereof as shall be necessary for making the necessary repairs to the houses occupied by the governor of this Commonwealth.

The Governor's houses to be repaired.

SECT. 2. This act shall commence in force from the passage thereof. Commencement of the act.

CHAP. LXIV.

An act to explain and amend an act intituled, "An act to vest certain lands, whereof Henry Garnett is seized, in Trustees to be sold, and the money laid out in the purchase of other lands."

(Passed December 1st, 1791.)

SECT. 1. WHEREAS the act passed at the last session, intituled, "An act to vest certain lands, whereof Henry Garnett is seized, in trustees to be sold, and the money laid out in the purchase of other lands." requires explanation and amendment; *It is therefore enacted by the General Assembly*, That Hancock Lee, James Upshaw, jun. Andrew Monroe, and George William Smith, gentlemen, or any three of them, together with Henry or Harry Garnett, shall be, and are hereby empowered to make sale of any or all the lands of which the said Henry or Harry Garnett, is possessed, and to which he is intitled under the will of his grand-father James Garnett, deceased, including those in the first instance devised to him or for his use, and also those which devolved upon him by the death of Francis Garnett, and to convey all lands so sold to the several purchasers respectively in fee simple, expressing in the deeds, the true consideration in money for which the said lands or any part thereof were so sold; and the purchaser or purchasers of the said lands or any part thereof, shall hold the same in fee simple against all persons claiming by, from, or under the said James Garnett, deceased. Preamble. Trustees authorised to sell certain lands belonging to Henry Garnett;

SECT. 2. *And whereas* the said trustees, and the said Henry or Harry Garnett, may already have made sales of, or contracts for the sale of the said lands, or some of them, *Be it further enacted*, that such sales or contracts shall be confirmed and established, and that conveyances in pursuance thereof may now be made, whether deeds and convey such as they have already sold;

have heretofore passed or not, in the stile and manner above directed; whereupon the purchaser or purchasers shall hold the said lands in fee simple against all persons claiming by, from, or under the said James Garnett, deceased.

Money arising from the sales, to be laid out in the purchase of other lands;

SECT. 3. *And be it further enacted*, That the whole of the money raised by any such sales, made or to be made, shall by the said trustees, or any three of them, be invested in the purchase of other lands; which said other lands so to be purchased, shall be conveyed to the said trustees in manner following, that is to say: Such conveyance or conveyances shall express the true consideration in money paid for the lands thereby conveyed, and distinguish whether the same was raised by the sale of lands, devised in the first instance to, or for the use of the said Henry or Harry Garnett, in the will of the said James Garnett, or by the sale of lands which accrued to him by the death of Francis Garnett; and the lands purchased, or to be purchased, shall be conveyed to the said trustees in trust, to go and descend in the first case, in the same manner as the lands so devised to, or for the use of the said Henry or Harry in the first instance would have gone and descended; in the latter, as those accruing to him by the death of Francis Garnett, would have gone and descended, had this and the said recited act never been made.

subject to the same limitations as the lands so sold were subject to.

Mode in which the lands purchased are to be conveyed to the trustees.

SECT. 4. *And be it further enacted*, That if the consideration paid for any tract of land so to be purchased, shall be compounded of monies raised by the sales of lands, originally devised to, or for the use of the said Henry or Harry, in the will of the said James Garnett, as well as of those devolving upon him by the death of the said Francis, the deed or deeds shall distinguish the exact amount produced from each fund, and the said trustees or any three of them, having by metes and bounds, divided the said purchased lands, in proportion to the purchase money raised from each fund, as to them shall appear just and reasonable, shall take a conveyance for one division of the said land in trust [having regard to the fund, whence its purchase money was raised] to go and descend, as the lands so originally devised by the said James Garnett, to or for the use of the said Henry or Harry, would have gone or descended; and for the other division thereof, to go and descend, as the lands accruing to him by the death of the said

Francis, would have gone and descended, had this and the said recited act never been made.

SECT. 5. *And be it further enacted*, That no misrecital of the said James Garnett's will, in the said recited act, shall vitiate, annul, or make void, any act or thing done or to be done, under the said recited act, or under this act. Misrecital of Garnett's will not to avoid any thing done under this or the former act.

SECT. 6. *And whereas* it was not the intention of the legislature, in and by the said recited act, virtually to repeal the act, intituled, "An act declaring tenants of lands or slaves in taille to hold the same in fee simple," made in the year one thousand seven hundred and seventy-six, or in this particular case to establish a perpetuity, or an estate taille: *Be it further enacted*, That nothing contained in the first recited act, or in this act, shall in any manner repeal or obstruct the effect of the said act, intituled, "An act declaring tenants of lands or slaves in taille to hold the same in fee simple," but that the lands purchased or to be purchased under this act, or under the said first recited act, shall be liable to the operation of the said act, intituled, "An act declaring tenants of lands or slaves in taille to hold the same in fee simple," in the same manner, as the lands directed to be sold would have been respectively holden, had neither the said first recited act, or this act, ever been made. The act for docking intailes not to be affected by this or the former act. The lands purchased by the trustees to be subject thereto.

SECT. 7. *And be it further enacted*, That so much of the said first recited act, intituled, "An act to vest certain lands, whereof Henry Garnett is seized, in trustees to be sold, and the money laid out in the purchase of other lands," as is contrary to, or inconsistent with this act, shall be, and the same is hereby repealed. Repealing clause.

CHAP. LXV.

An act for granting to the Directors of the public buildings a sum of money for the purposes therein mentioned.

(Passed December 20th, 1791.)

One hundred pounds to be laid out in furniture for the Governor's house.

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall, and he is hereby directed, to issue to the directors of the public buildings, a warrant on the treasurer for the sum of one hundred pounds, to be by them vested in the purchase of standing furniture for the use of the governor's house.

Commencement of the act.

SECT. 2. This act shall commence and be in force from and after the passage thereof.

CHAP. LXVI.

An act for vesting in John Campbell, the interest which the Commonwealth hath in one thousand acres of land, lying at the Falls of the Ohio river.

(Passed December 6th, 1791.)

Preamble.

SECT. 1. WHEREAS it is represented to this General Assembly, that previous to the year one thousand seven hundred and seventy-six, John Connolly and John Campbell, were seized as tenants in common, of and in, two thousand acres of land lying at the falls of the Ohio river, which became escheated to the Commonwealth, in consequence of an inquest of office found against the same as the absolute property of the said John Connolly, which inquest was taken some time in the year one thousand seven hundred and eighty, and whilst the said John Campbell was in captivity. And whereas the surveyor of Jefferson county hath in conformity to the act of Assembly passed in the year one thousand seven hundred and eighty-three, intituled, "An act for repealing in part the act for establishing the town of Louisville," allotted

to the said John Campbell, one moiety of the said two thousand acres of land, by running a line of division thereof between him and the said John Connolly, agreeably to their deed of partition made and executed by the said parties each to the other, bearing date the sixth day of February, one thousand seven hundred and seventy-six; and the said John Campbell hath petitioned this Assembly that the right of the Commonwealth in and to the moiety of the said land so allotted to him may be released and vested in him, which is adjudged reasonable: *Be it therefore enacted*, That all the right, title, interest, claim and demand, which now exists in the Commonwealth in and to the moiety of the said two thousand acres of land, as comprehended and included in the division made by the surveyor of Jefferson county, and allotted to the said John Campbell, shall pass, descend, and be vested in him the said John Campbell and his heirs, in fee simple. Interest of the Commonwealth in certain lands vested in John Campbell.

SECT. 2. *Saving nevertheless*, the rights legal and equitable, of all and every person and persons, bodies politic or corporate, except of the Commonwealth, and those claiming under it, in and to the said one thousand acres of land, so allotted to the said John Campbell. Rights of others saved

CHAP. LXVII.

An act appointing Trustees to sell part of the lands of the Reverend David Griffith, deceased, for the payment of certain debts, and for other purposes.

(Passed November 14th, 1791.)

SECT. 1. WHEREAS the Reverend David Griffith, departed this life some time in the year one thousand seven hundred and eighty-nine, intestate, seized of sundry tracts of land lying in the district of Kentucky, and also of sundry lots of land lying in the town of Alexandria, leaving Hannah Griffith, his widow, and five small children: And whereas it is represented that there was due and owing from the said decedent in his life time, several debts, to secure the payment of which, he mort- Preamble

gaged his said property lying in the town of Alexandria, which property it was his intention to have released by making sale of his said Kentucky lands, and applying the proceeds thereof to the discharge of the debts expressed in the said mortgages, which is manifested by a power of attorney, executed by the said intestate on the eighteenth day of June, one thousand seven hundred and eighty-nine, and directed to Christopher Greenup, esquire, authorising and empowering him to make sale of all or any part of his said last mentioned lands, agreeably to a letter of instructions, which accompanied the said power of attorney; but that previous to carrying the said plan into execution, the said David Griffith departed this life, leaving a personal estate, not only insufficient to discharge the before mentioned debts, but inadequate to defray the expences which have been incurred in securing his said western lands: And whereas the said Hannah Griffith, in behalf of herself and her said children, hath by petition to this Assembly, represented that it would be highly advantageous to them, for a law to pass to carry into effect the intentions of her deceased husband, by authorising the sale of his lands, lying in the district of Kentucky, and thereby reserve to their use and benefit the property belonging to his estate in the town of Alexandria, from the rents and profits of which they derive their principal support: *Be it therefore enacted by the General Assembly*, That the Reverend Bryan Fairfax, William Herbert, Charles Little, Charles Simms, and Richard Conway, gentlemen, shall be, and they are hereby appointed trustees for the following purposes, that is to say: The said trustees, or any three of them, shall upon receipt of this act, proceed to sell in such manner as to them shall seem most advantageous, so much of the lands whereof the said David Griffith died seized, and lying in the district of Kentucky, as shall be sufficient to release from incumbrance such of his property lying in the town of Alexandria, as was mortgaged in his life time, by applying the proceeds of such sale to the discharge of the several debts included in the said mortgages.

Trustees to sell part of the lands of David Griffith, deceased.

for the payment of his debts,

SECT. 2. *And be it further enacted*, That should any part of the said lands remain unsold after discharging the several debts before mentioned, that in such case it shall be lawful for the said trustees, or any three of them, to sell so much of such remaining lands, as will be suf-

and for defraying the expense of locating &c. certain lands in Kentucky.

ficient to defray the necessary expences which have been incurred, or shall accrue in locating, surveying, and patenting the said western lands: *Provided nevertheless*, that the said trustees shall not be authorised to sell such parts of the said lands as were contracted by Colonel Leven Powell, in behalf of the decedent, to be reserved and given unto certain persons, as their proportions for locating and surveying the same, by virtue of certain land warrants, put into their hands for that purpose. So soon as the said trustees shall have made sale of the lands directed by this act to be sold, they, or a majority of them, shall convey the same to the purchaser or purchasers in fee simple; and it shall moreover be lawful for them in like manner to convey such other parts thereof unto Isaac Hite, Andrew Hines, and John Hanley, and in such proportions as the said Leven Powell (in behalf of the said decedent) contracted to be reserved and given unto them, for their trouble in locating and surveying the said lands.

Certain parts of the land not to be sold;

Conveyances to be made by the trustees.

SECT. 3. The said trustees, when they have performed the trust reposed in them by this act, shall make a fair statement of their proceedings therein, which having been examined and approved by the court of Fairfax county, shall be recorded therein.

Proceedings of the trustees to be examined and recorded in Fairfax county court.

CHAP. LXVIII.

An act concerning the clerks within the District of Kentucky.

(Passed December 10th, 1791.)

SECT. 1. WHEREAS it hath been represented, that Levy Todd, clerk of the county court of Fayette, did pay to the receiver of the district of Kentucky, the sum of twenty-three pounds seven shillings and seven pence, on account of the tax imposed by law on clerks, subsequent to the repeal of the act imposing new taxes; and he hath made application to this Assembly to direct the said sum to be repaid him. *Be it therefore enacted*, That the said receiver shall, and he is hereby directed and required, to pay to the said Levy Todd the said sum of twenty-three pounds seven shillings and seven pence.

Preamble.

Certain sums of money to be refunded to the clerks of courts in Kentucky.

SECT. 2. *And be it further enacted*, That the receiver of the said district, shall refund to the several clerks within the same, all such sums of money as they may have respectively paid for taxes arising under the said recited act since the repeal thereof: *Provided always*, that nothing herein contained shall be construed to authorise the said receiver, to repay any monies, which he received for taxes due before the repeal of the said act.

CHAP. LXIX.

An act authorising Lotteries for the benefit of the Episcopal Society.

(Passed December 15th, 1791.)

Certain sums of money to be raised by lottery, for building a church in Manchester,

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for Robert Goode, Bernard Markham, Granville Smith, James Lyle, Alexander Banks, David Patterson, Matthew Cheatham, and John Murchie, gentlemen, or a majority of them, to raise by way of lottery, a sum of money not exceeding six hundred pounds, for the purpose of erecting a church in the town of Manchester, in the county of Chesterfield, for the use of the members of the Protestant Episcopal Society.

and for repairing the church and glebe of St. Anne parish.

SECT. 2. *And be it further enacted*, That the vestry of the Protestant Episcopal Society within the parish of Saint Anne, in the county of Essex, shall be, and they are hereby authorised and empowered, to raise by lottery, a sum of money not exceeding three hundred pounds, for the purpose of repairing the church and glebe of the said parish.

SECT. 3. This act shall commence in force from and after the passage thereof.

CHAP. LXX.

An act to raise a sum of money, not exceeding seven hundred and fifty pounds, by way of lottery, for the purpose of building a Free Masons Hall in the county of Charlotte.

(Passed November 16th, 1791.)

A sum of money to be raised by lottery for building a Masons hall in Charlotte county.

BE it enacted by the General Assembly, That it shall and may be lawful for the society of Free Masons, in the county of Charlotte, to raise by way of lottery, a sum of money not exceeding seven hundred and fifty pounds, for the purpose of erecting a Free Masons hall in the said county, and that Joseph Wyatt, Joseph Scott, William Hubard, John Coleman, Francis Scott, John B. Scott, Francis Theric, John Purnall, and Thomas Oliver, gentlemen, be appointed managers to superintend and carry into effect the said lottery, a majority of whom may proceed to business.

CHAP. LXXI.

An act authorising several lotteries.

(Passed December 7th, 1791.)

Certain sums of money to be raised by lotteries, for paving the main street of Winchester;

SECT. 1. *BE it enacted by the General Assembly*, That it shall and may be lawful for George Kiger, Edward Smith, Joseph Tidball, John Kean, John Peyton, Lewis Huff, and Isaac Sitler, or a majority of them, to raise by one or more lotteries, a sum not exceeding two hundred pounds, to be by them applied towards defraying the expense of paving the main street in the borough of Winchester.

for building an academy in Warminster;

SECT. 2. And it shall be lawful for William Cabell, Edward Carter, Henry Bell, Samuel Meredith, Joseph Cabell, George Gilmer, John Coles, Henry Martin, John Scott, Nicholas Cabell, John Rose, Hugh Rose, Patrick Rose, David Coupland, Thomas Anderson, Gabriel Penn, William Cabell, junior, Ambrose Rucker, John

Breckenridge, Wilson Cary Nicholas, Charles Irving, Charles Carter, junior, Roderick M'Culloch, William S. Crawford, Robert Cary, Nathan Crawford, Joseph Cabell, junior, Robert Rives, David Bell, William Allen, William Perkins, Rolfe Eldridge, and Samuel Jordan Cabell, or a majority of them, to raise by way of lottery, a sum not exceeding two thousand pounds, to be by them applied towards erecting an academy in the town of Warminster, in the county of Amherst.

for repairing a bleaching mill near Staunton.

SECT. 3. It shall be lawful for William Foushee, Miles Selden, Alexander Montgomery, Robert Gamble, Robert Mitchell, John Barret, Robert Pleasants, Thomas Pleasants, and Samuel Parsons, or a majority of them, to raise by way of lottery, a sum of money not exceeding four thousand dollars, to be by them applied towards paying the expence of repairing and completing a bleaching mill near Staunton, the property of Smyth Tandy.

Trustees appointed for the Warminster academy;

SECT. 4. *And be it further enacted*, That the said Samuel Jordan Cabell, William Cabell, Edward Carter, Henry Bell, Samuel Meredith, Joseph Cabell, George Gilmer, John Coles, Henry Martin, John Scott, Nicholas Cabell, John Rose, Hugh Rose, Patrick Rose, David Coupland, Thomas Anderson, Gabriel Penn, William Cabell, jun. Ambrose Rucker, John Breckenridge, Wilson Cary Nicholas, Charles Irving, Charles Carter, jun. Roderick M'Culloch, William S. Crawford, Robert Cary, Nathan Crawford, Joseph Cabell, jun. Robert Rives, David Bell, William Allen, William Perkins, and Rolfe Eldridge, gentlemen, and those hereafter to be elected, and their successors for ever, are hereby made and constituted a body corporate and politic, by the name of "The Trustees of Warminster Academy." They shall have power and capacity to purchase, receive and possess, lands and tenements, goods and chattels, either in fee, or any lesser estate therein, and the same to grant, sell or assign, and to plead and be impleaded, prosecute and defend all causes in law or equity. The said trustees, or a majority of them, when assembled, shall have power to make such bye-laws and ordinances, as they shall think best for the good government of the said academy, and to perform and do any act respecting the property vested therein: *Provided*, such bye-laws and ordinances shall not be inconsistent with the laws and constitution of this Commonwealth. They shall choose a president and secretary out of their own body; and

Their powers and duties.

in case of vacancy, by death or otherwise, of any one or more of the said trustees, the same shall be supplied by a majority of the remaining trustees.

SECT. 5. *And be it further enacted*, That the said trustees shall meet in the town of Warminster on the fourth Monday in January next, for the purpose of fixing on the most eligible place for the erection of the said academy.

CHAP. LXXII.

An act for lending a sum of money to certain French emigrants.

(Passed December 20th, 1791.)

A road to be opened to the settlement of certain French emigrants in Russell.

SECT. 1. *BE it enacted by the General Assembly*, That the governor, with advice of the council, is hereby empowered and required to cause a road to be opened from Russell courthouse to the settlement of De Tubeuf and other French emigrants, the expence whereof shall be paid by the treasurer, upon warrant from the auditor, out of any public money in the treasury, not exceeding the sum of thirty pounds.

A sum of money to be advanced to them on loan

SECT. 2. *And be it further enacted*, That the sum of six hundred pounds shall be advanced by the treasurer on loan to the said Tubeuf and other French emigrants, in the county of Russell, to enable them to complete the settlement of their lands in the said county: *Provided always*, that the said De Tubeuf shall previous to his obtaining the said sum of money, enter into bond with sufficient security, to be approved of by the executive, to repay the same with interest, on or before the first day of January, one thousand seven hundred and ninety-nine.

CHAP. LXXIII.

An act authorising William Tatham, to raise by way of Lottery, a sum of money to enable him to complete the Geographical work in which he is at present engaged.

(Passed December 10th, 1791.)

A sum of money to be raised by lottery, for the benefit of William Tatham.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the passing of this act, it shall and may be lawful for William Tatham to raise by way of lottery or lotteries, any sum or sums of money not exceeding the sum of four thousand pounds, in aid of his geographical undertakings: *Provided*, that no more than ten per cent. shall be deducted from the monies payable in prizes for this purpose.

SECT. 2. *And be it further enacted*, That the following gentlemen, to wit: Edward Carrington, William Foushee, George Weir, William Hay, and Julius B. Dandridge, be, and the same or any three of them, are hereby constituted and appointed trustees, managers and directors, with full power and authority to carry the said lottery or lotteries into complete use and effect, agreeable to the true intent and meaning hereof.

CHAP. LXXIV.

An act concerning Thomas Herbert, and others.

(Passed November 30th, 1791.)

Preamble.

WHEREAS Thomas Herbert, during the late war, held the commission of a captain in the navy of this state, and commanded the armed brig Liberty, and captured on different cruizes several British vessels, which were sold under decrees of the court of admiralty, and the proceeds arising from the sales thereof deposited in the public treasury: *Be it therefore enacted by the General Assembly*, That the said Thomas Herbert, and his crew, on application in person, or by attorney legally authorised, shall be

The auditor to grant to the captain and crew of the

allowed their several proportions of the proceeds of such vessels, according as the same were by law or otherwise divided; and that the auditor of public accounts, forthwith take measures to ascertain such proportions, and deliver to the said Thomas Herbert, and his crew, making application as aforesaid, warrants for the amount thereof, payable out of the aggregate fund, with interest thereon from the time it was deposited in the treasury.

Liberty, warrants for their shares of certain prizes.

CHAP. LXXV.

An act concerning Frederick Fisher.

(Passed November 30th, 1791.)

SECT. 1. WHEREAS by joint resolution of both houses of the General Assembly, passed the twenty-fourth day of December, in the year one thousand seven hundred and eighty-one, there was granted to Frederick Fisher, a soldier, who had received several wounds at the battle of King's Mountain, which rendered him unable to support himself by labour, an allowance of twelve pounds for present relief, and the like sum annually for three years, thence following and to come, which expired on the twenty-fourth day of December, one thousand seven hundred and eighty-four: And whereas the situation of the said Frederick Fisher, at the period the said allowance ceased, was and has since continued by reason of the said wounds to be such as calls for public relief; *Be it therefore enacted by the General Assembly*, That the said Frederick Fisher shall be placed on the list of state pensioners, at the annual allowance of twelve pounds.

Preamble.

Frederick Fisher placed on the list of pensioners.

SECT. 2. *And be it further enacted by the General Assembly*, That the said Frederick Fisher shall receive from the public, all arrearages upon the said allowance made to him by the resolution of the General Assembly, from the period of its discontinuance, to the present time

Arrears to be paid to him.

CHAP. LXXVI.

An act concerning John Wheeler.

(Passed November 30th, 1791.)

John Wheeler placed on the list of pensioners.

BE it enacted by the General Assembly, That John Wheeler, who served as a soldier in the Virginia line during the late war, and in the course thereof received several wounds, whereby he is rendered unable to support himself by labour, shall be paid out of any money in the hands of the treasurer, the sum of eight pounds for his immediate relief, and receive as a pensioner the like sum annually.

CHAP. LXXVII.

An act for paying a sum of money to William Hay.

(Passed December 7th, 1791.)

Preamble.

WHEREAS it has been represented to the present General Assembly, that John Hay, deceased, late of the city of Richmond, lent to Colonel Turner Southall, deceased, in the month of May, one thousand seven hundred and seventy-nine, thirty barrels of corn for the use of the troops in the lower part of the state, and in the fall of the same year, to Samuel Williamson, acting as commissary under the said Turner Southall, the further quantity of fifty barrels of corn, the whole to be repaid in Richmond, and that the said John Hay in his lifetime, or William Hay, his executor, since his death, have received compensation for fifteen barrels only: *Be it enacted by the General Assembly*, That the sixty-five barrels of corn shall be estimated at the rate of ten shillings per barrel, and the auditor of public accounts shall and is hereby directed to issue to the said William Hay, executor of John Hay, deceased, a certificate for the same.

A certificate for the value of a certain quantity of corn to be granted to John Hay's executor.

CHAP. LXXVIII.

An act concerning Edmund Webb and others.

(Passed December 20th, 1791.)

A certificate to be issued to Edmund Webb.

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall, and he is hereby directed, to issue to Edmund Webb, a certificate for the sum of fifteen pounds.

The claim of Moses Chaplain and John Mitchell to be liquidated.

SECT. 2. *And be it further enacted*, That the auditor of public accounts shall, and he is hereby required and directed, to liquidate the claim of Moses Chaplain and John Mitchell, for their services as commissioners of the land tax in the county of Ohio, in the year one thousand seven hundred and eighty-six, and issue warrants for the amount thereof, conformably to the directions of the act, intituled, "An act for equalizing the land tax."

Commencement of the act.

SECT. 3. This act shall be in force from the passage thereof.

CHAP. LXXIX.

An act for allowing pensions to sundry persons therein mentioned.

(Passed December 15th, 1791.)

Pensions granted to John Skeggs, John Scurry, Ferguson Hyland, Philip Evans, William Smith,

SECT. 1. *BE it enacted by the General Assembly*, That the following persons, who served as soldiers in the line of this state during the late war, and in the course thereof received wounds which have rendered them unable to support themselves by labour, shall be placed on the list of pensioners, and annually have and receive the following allowances: John Skeggs, the sum of eight pounds, to commence on the fifteenth day of April, one thousand seven hundred and eighty-three: John Scurry, the sum of eight pounds, to commence on the first day of November, one thousand seven hundred and eighty-nine; and Ferguson Hyland, Philip Evans, and William Smith, the

sum of ten pounds each, to commence from the passage of this act.

Mary Ramsay,

SECT. 2. *And be it further enacted by the General Assembly*, That Mary Ramsay, widow of Doctor John Ramsay, who was a surgeon in the army during the late war, and continued therein until his death, shall be placed in like manner on the list of pensioners, with an allowance of thirty pounds per annum.

And Elizabeth Snale.

SECT. 3. *And be it further enacted*, That Elizabeth Snale, widow of Thomas Snale, deceased, who at the time of his death was an officer in the navy of this state, shall receive as a pensioner, the sum of fifteen pounds per annum.

Arrears of Catlett James's pension to be paid to Mildred James.

SECT. 4. *And be it further enacted*, That Mildred James, whose son Catlett James, deceased, was placed on the list of pensioners, and allowed the sum of twelve pounds per annum, which was discontinued on the twenty-ninth day of December, one thousand seven hundred and eighty-six, shall receive the arrears thereof from that period until the twenty-second day of May, one thousand seven hundred and eighty-eight, at the rate of the allowance aforesaid to the said Catlett.

CHAP. LXXX.

An act concerning John Stith.

(Passed December 7th, 1791.)

A military certificate to be granted to John Stith;

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall issue to John Stith, late an officer in the American army, a military certificate for the sum of eighty-six pounds thirteen shillings and four pence, together with warrants for interest as allowed on the military debt, the said sum having been wrongfully deducted from the balance due him from the public, on settling his account of pay and depreciation.

And a warrant for twenty pounds.

SECT. 2. *And be it further enacted*, That the auditor of public accounts shall also issue to the said John Stith, a warrant for the sum of twenty-one pounds nine shillings and nine pence, for damages he hath sustained and paid in an action instituted against him by the Com-

monwealth, which warrant shall be made payable out of any money in the hands of the treasurer.

CHAP. LXXXI.

An act for paying a sum of money to John A. Chevallie, agent for Penet, Dacosta, Brothers, and Company.

(Passed December 1st, 1791.)

A sum of money to be paid to John A. Chevallie, agent of Penet, Da Costa, Brothers, and Co,

BE it enacted by the General Assembly, That John A. Chevallie, agent for Penet, Dacosta, Brothers, and Company, co-partners and merchants in the town of Nantz, and kingdom of France, who shipped a quantity of military stores for the use of the state during the late war, shall be paid for the same the sum of eight hundred and ninety-seven pounds six shillings, together with the interest accruing thereon, after the rate of five per centum per annum, from the fourth day of February, one thousand seven hundred and eighty-four. The auditor of public accounts shall, and he is hereby directed, to issue to the said John A. Chevallie, in the name of the said Dacosta, Brothers, and Company, a warrant or warrants for the same, payable out of the aggregate fund.

Out of the aggregate fund.

CHAP. LXXXII.

An act for paying the officers of the General Assembly for their services during the present session.

(Passed December 20th, 1791.)

Allowances to the officers of the General Assembly for their services.

SECT. 1. *BE it enacted by the General Assembly*, That the following allowances shall be made to the officers of the General Assembly for their services during the present session: To the chaplain, six pounds per week; to the clerk of the house of delegates, thirty-five pounds

per week; to the clerk of the senate, seventeen pounds ten shillings per week; to the clerk of the committees of privileges and elections, and propositions and grievances, twelve pounds ten shillings per week; to the clerk of the committees of religion and claims, ten pounds per week; to the clerk of the committee for courts of justice, ten pounds per week; to the serjeant at arms of the senate, eight pounds ten shillings per week; to the serjeant at arms of the house of delegates, eight pounds ten shillings per week; to each of the door-keepers of the senate and house of delegates, five pounds per week; and to the person who cleans the capitol, the sum of five pounds.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

SECT. 3. *And be it further enacted*, That Thomas Nicolson shall be allowed the sum of thirty-five pounds for printing the journals of the senate during the present session.

CHAP. LXXXIII.

An act concerning Wilson Cary and others.

(Passed December 16th, 1791.)

Certificates to be issued to Wilson Cary,

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall, and he is hereby directed, to issue a certificate to Wilson Cary, for fourteen hundred and fifty pounds weight of beef, taken and impressed in the year one thousand seven hundred and eighty-one, for the use of the troops stationed at Gloucester town.

Thomas Snow

SECT. 2. *And be it further enacted*, That the auditor shall, in like manner, issue to Thomas Snow, a certificate for two hundred and fifty pounds weight of beef, furnished by him in the year one thousand seven hundred and eighty, under an act of General Assembly, intituled, "An act for procuring a supply of provisions and other necessaries for the use of the army."

and Gabriel Richards.

SECT 3. *And be it further enacted*, That the auditor of public accounts shall issue a certificate to Gabriel

Richards, for the sum of five shillings and six pence, for provender furnished a party of horse during the late war. The price of the beef herein before mentioned, shall be estimated at the rate of two pence half-penny per pound.

CHAP. LXXXIV.

An act concerning Oliver Pollock.

(Passed December 19th, 1791.)

Warrants to be issued to Oliver Pollock, for the amount of certain bills of exchange payable out of the aggregate fund.

BE it enacted by the General Assembly, That the auditor of public accounts shall be, and he is hereby directed, to issue to Oliver Pollock, warrants on the treasurer for the sum of three thousand nine hundred and three dollars, and nine sixteenths of a dollar, the amount of four protested bills of exchange; and also in like manner to issue warrants for the interest and damages due thereon, agreeably to the mode heretofore adopted in the settlement of his account with this Commonwealth; the said warrants shall be made payable out of the aggregate fund.

CHAP. LXXXV.

An act directing a sum of money to be paid to William Pennock and George Nicolson.

(Passed December 3d, 1791.)

Preamble.

WHEREAS the brigantine Nancy, the property of William Pennock and George Nicolson, was in the year one thousand seven hundred and eighty-six, libelled and condemned in the court of admiralty for a short entry, and the said vessel with a chariot, the only article on board was sold, and a moiety of such sales paid into the public treasury; And it is represented that such short entry proceeded from the ignorance and not a fraudulent intention of the captain, in as much as he gave informa-

tion thereof to the naval-officer, and requested him to make an entry of the said chariot (which was refused) some days prior to the issuing of the citation: And the said Pennock and Nicolson have petitioned this Assembly to be paid the amount of the sales so paid into the public treasury, which is judged reasonable and expedient to do: *Be it therefore enacted*, That the treasurer shall, and he is hereby directed and required, upon warrant of the auditor of public accounts, to pay the said Pennock and Nicolson, out of any public money in his hands, the money paid into the treasury from the sales of the said vessel and chariot by virtue of the sentence of the court of admiralty.

A sum of money to be paid to Pennock and Nicolson, out of any money in the treasury.

CHAP. LXXXVI.

An act for refunding certain payments to John Thomas and Thomas Newton.

(Passed December 20th, 1791.)

Certain payments to be refunded to John Thomas,

SECT. 1. *BE it enacted by the General Assembly*, That the sum of twenty-seven pounds nineteen shillings, the amount of certain taxes due from sundry insolvents in the county of Rockingham, on account of the certificate tax for the year one thousand seven hundred and eighty-three, and the further sum of twenty-six pounds, due from the said insolvents on account of the revenue tax for the said year, which have been paid into the public treasury by John Thomas, sheriff of the said county, shall be refunded to him.

and Thomas Newton.

SECT. 2. *And be it further enacted*, That the auditor of public accounts shall issue to Thomas Newton, who was sheriff of the county of Norfolk, a warrant for the amount of certain taxes due from sundry insolvents of the said county on account of the revenue tax, agreeably to the list which shall be produced by him, properly certified by the court of the said county.

Commencement of the act.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

IN THE HOUSE OF DELEGATES.

Tuesday, the 25th of October, 1791.

RESOLVED, That the first article of the amendments proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

November 3d, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the second article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the third article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the fourth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the fifth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the sixth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the seventh article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the eighth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the ninth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the tenth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the eleventh article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 5th of December, 1791.

RESOLVED, That the twelfth article of the amendments, proposed by Congress to the Constitution of the United States, be ratified by this Commonwealth.

December 15th, 1791.—Agreed to by the Senate.

Monday, the 14th of December, 1791.

RESOLVED, That the period of fifteen days from the day on which the house of delegates shall annually form a house, be prescribed for the reception of petitions, and that the clerk of the house of delegates do make known this order by due promulgation thereof, together with the order of this house specifying the requisites necessary to be observed to ensure the reception of petitions.

Standing orders of the House of Delegates mentioned in the preceding resolution.

RESOLVED, That it be a standing order of the house, that no memorial or petition be received, praying for the division of any county or parish, changing the place of holding any court, or other local matter, unless the purport of such petition or memorial shall have been fixed at the door of the courthouse or other house of holding courts of the county, where such alteration is proposed, at two different courts, and shall have remained there one day during the sitting of each court, one month at

least previous to offering the same: And that no petition or memorial be received, or bill brought in, for establishing or discontinuing ferries, or other matters affecting private right or property, unless the party or parties interested shall have had one month's notice thereof, if known to the petitioners, and if not known, the purport of such memorial, petition or bill, shall be set up at the courthouse or other place of holding courts in the manner before directed, and also three times inserted in the Virginia Gazette one month before offering or moving for the same.

Resolved, That it be a standing order of this house, that no petition be received claiming a sum of money, or praying a settlement of unliquidated accounts, unless it be accompanied with a certificate either from the executive or auditor of public accounts, that the said claim had been laid before them respectively, and containing the reasons why they refused to settle the same: *Provided*, that this order shall not extend to any person applying for a pension.

Teste, CHARLES HAY, C. H. D.

AT A

GENERAL ASSEMBLY,

Begun and held at the Capitol in the city of Richmond, on Monday, the first day of October, one thousand seven hundred and ninety-two, and in the 17th year of the Commonwealth.

Henry Lee, esq. governor.

CHAP. I.

An act for arranging the counties of this Commonwealth into districts to choose Representatives to Congress.

(Passed the 26th of December, 1792.)

Arrangement of districts for the election of representatives in congress;

SECT. 1. *BE it enacted by the General Assembly*, That the counties of this Commonwealth shall be divided into nineteen districts, in manner following, to wit:—The counties of Frederick and Berkely shall compose one district: The counties of Augusta, Rockingham, Shenandoah, Rockbridge, and Bath, shall compose another district: The counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia, and Ohio, shall compose another district: The counties of Wythe, Greenbrier, Kanawha, Lee, Russell, Montgomery, Grayson, and Washington, shall compose another district: The counties of Franklin, Bedford, Pittsylvania, and Halifax, shall compose another district: The counties of Patrick, shall compose another district: The counties of Campbell, shall compose another district: The counties of Prince-Edward, Charlotte, Buckingham, Cumberland, and Powhatan, shall compose another district: The counties of Brunswick, Mecklenburg, Lunenburg, and Greensville, shall compose another district: The counties of Dinwiddie, Amelia, Nottoway, and Chesterfield, shall compose another district: The counties of Sussex, Southampton, Surry,

and Prince-George, shall compose another district: The counties of Norfolk, Princess Anne, Isle of Wight, and Nansemond, shall compose another district: The counties of York, Accomack, Northampton, Elizabeth City, Warwick, Gloucester, and Mathews, shall compose another district: The counties of Henrico, Hanover, New-Kent, Charles City, and James City, shall compose another district: The counties of Albemarle, Amherst, Fluvanna, and Goochland, shall compose another district: The counties of Orange, Spottsylvania, Louisa, and that part of Culpeper established as a county by the name of Madison, shall compose another district: The counties of King & Queen, King William, Essex, Middlesex, and Caroline, shall compose another district: The counties of Loudoun, Fairfax, and Prince William, shall compose another district: The county of Culpeper as now divided, with the counties of Fauquier, and Stafford, shall compose another district: and the counties of Richmond, Westmoreland, King George, Lancaster, and Northumberland, shall compose another district.

Qualification of electors;

Elections, when & where to be held;

SECT. 2. *And be it further enacted*, That the persons qualified by law to vote for members to the house of delegates in each county and corporation composing a district, shall assemble at their respective county court-houses, on the third Monday in March next, and also on the third Monday in March in every second year thereafter, and then and there vote for some discreet and proper person, being a freeholder and resident within such district, as a member of the house of representatives for the United States.

By whom;

How to be conducted;

SECT. 3. The high sheriff of each county, or in case of his sickness or inability to attend, one of the deputy sheriffs (except in such counties where there shall be no sheriff) shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote, shall openly and publicly poll, and the name of the voter shall be then entered under the name of the person voted for, in proper poll books, to be provided by the officer conducting the election, who shall appoint so many writers as, for which purpose he shall respectively take an oath, to shall think fit, who him, or make solemn affirmation, that they will record by poll fairly and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns under the name of the person voted for, the name of each

elector voting for such person. Like proclamation and proceeding shall be had for conducting, continuing, and closing the poll in each county of a district, as is prescribed by law in the election of members to the General Assembly: and proclamation shall also be made at the courthouse door, or place of holding such election of the person having the greatest number of votes on the poll on the closing thereof. Each elector shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend and vote at such election, as is prescribed by law, in the case of election of members to the General Assembly. Such failure to attend to be discovered and proceeded on in like manner, and under the same penalties, as is by law provided against such failures in the election of members to the General Assembly.

Privilege of electors; Penalty for not voting:

SECT. 4 Immediately after each election in a county, the clerks of the poll having first signed the same, shall deliver the same to the sheriff or other officer who conducted the election, and such sheriff or other officer, together with the respective sheriffs and other officers who conducted the poll of the several counties in the district (but in case of sickness, death or other disability of the officer who shall have conducted the poll, then any other sheriff or officer of the county in which such disability may happen) shall on the eighth day after the election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the elections in their several counties, and having ascertained by faithful addition, and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such poll, having an equal number of votes, shall proceed to certify such election, under their hands and seals, in manner and form following, to wit:

Duties of the returning officers.

"We, A. B. sheriff of county (or deputy "sheriff, as the case may be) C. D. sheriff of "county (as the case may be) and so reciting the name "of the sheriff or magistrate, and whether principal or "deputy of each county in the district, composing one "entire district entitled by law to elect a member to the "house of representatives of the United States, do here-"by certify and make known that at an election held on

" at the place of holding elections in our
"respective counties, pursuant to law, the electors quali-
"fied to vote for the member to the house of delegates,
"caused to be chosen one person, to wit, G. H. to re-
"present the said district as a member of the house of
"representatives for the United States. Given under
"our hands and seals, this day of
"one thousand hundred and

Two fair duplicates of such certificate and return shall be made by the said sheriffs and other officers under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council, within twenty days, under the penalty of three hundred dollars upon each sheriff, or other officer, in case of failure or neglect herein; to be recovered by motion in any court of record, by the auditor of public accounts to the use of the Commonwealth, on ten days previous notice of such motion.

Poll books to be recorded.

SECT. 5. The said sheriffs and other officers, shall also under like penalty and recovery, deliver to the clerks of their respective counties, within ten days after such return, the original poll books, to be by such clerk entered of record under the like penalty for failure, as for failing to record the poll books taken at the election of members to the General Assembly—and where a poll shall be taken in any county which shall not become so, until after the election, which shall first be holden in pursuance of this act, the officer conducting such election shall deliver the poll books by him kept, to the clerk of his county, as the same now stands, to be by him also recorded under the like penalty.

Certificates of elections to be transmitted to Congress;

SECT. 6. It shall be the duty of the executive to inclose to the Congress of the United States, the certificates and returns of elections aforesaid, transmitted to them from the respective districts without delay.

Penalty on sheriffs for any neglect of duty;

SECT. 7. Any sheriff or other officer, refusing to take the poll when he shall be required by a candidate or elector; or taking it in any other manner than is herein before prescribed; or making or signing a false certificate or return of election as herein before directed; or making any erasure or alteration in the poll book; or refusing to suffer any candidate or elector at his own expence to take a copy of the poll book, shall forfeit and

pay six hundred dollars; which penalties may be recovered with costs, in actions of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the Commonwealth.

Penalty for bribing electors;

SECT. 8. Any candidate or other person in his behalf, who shall directly or indirectly, give or agree to give, any elector or pretended elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay fifteen hundred dollars for each offence; to be recovered with costs, by action of debt, to the use of any person who will sue for the same.

Allowance to the sheriffs for their trouble and expenses;

SECT. 9. *And be it further enacted*, That the sheriffs and other officers, shall receive for their trouble and expence in conducting the said elections, one dollar and sixty-seven cents for the day on which they shall attend to compare the different polls, together with an allowance of ferriages, and four cents a mile for travelling to and from the county, in which they shall meet for that purpose, to be paid in the same manner as the electors, who are to vote for a president of the United States, are paid.

Elections in three new counties, how to be conducted;

SECT. 10. Until the counties of Madison, Grayson, and Lee shall take effect, elections of representatives for Congress shall be holden at the places appointed by law for holding the first courts in such counties, and shall be conducted by the first magistrate of the said counties, or in case of sickness or other inability, the next in commission who shall attend the election, under the like regulations as elections are held in the other counties within this Commonwealth.

No elector to vote more than once for the same candidate.

SECT. 11. *Provided*, That no person entitled to suffrage in pursuance of this act, shall during the same election, vote more than once for the same candidate, under the penalty of one hundred dollars, to be recovered by action of debt, in any court of record, by any person who will sue for the same.

Repealing clause.

SECT. 12. So much of every other act, as prescribes the time of electing representatives to serve in the Congress of the United States, shall be, and the same is hereby repealed.

This act shall commence and be in force from and after the passage thereof.

CHAP. II.

An act for imposing a public Tax for the year one thousand seven hundred and ninety-two.

(Passed the 3d of December, 1792.)

Taxes on lands and other property;

SECT. 1. *Be it enacted by the General Assembly*, That the public taxes for the year one thousand seven hundred and ninety-two, shall be as follows, to wit: On lands for every hundred pounds value, agreeably to the equalizing law, five shillings; for every slave above the age of twelve years, (except such as have been or shall be exempted by reason of age or infirmity by the respective county or corporation courts) one shilling and eight pence; for every stud horse and jack ass, the price at which such horse or ass covers a mare the season; for all other horses, mules, mares and colts, four pence each; for every ordinary license, forty shillings; for every billiard table, fifteen pounds; for all lots and houses in towns, sixteen shillings and eight-pence on every hundred pounds of the rents thereof, to be ascertained by the rent paid by the tenant, and where such house and lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue, or either of them, by a comparison of its valse with other houses or lots actually rented: *Provided*, that the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioner was appointed whose judgment as to the yearly rent or value shall be final. And the said commissioners, or either of them, to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare upon oath, or solemn affirmation, what is the amount of the rent paid for the same: And every person so called upon and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice to be made by the commissioners of the revenue, or either of them; for every coach, chariot, or post chaise, six shillings for each wheel; for every other riding carriage with four wheels, four shillings for each wheel; for every other riding carriage with two wheels, two shillings for each wheel: *Provided* that no tax shall be collect-

ed on lands, lots, houses, or other property belonging to this Commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

On process, appeals,

SECT. 2. *And be it further enacted*, That the following taxes on process shall be paid: On each writ or declaration in ejectment instituting any suit in the district court, or subpœna in the high court of chancery, the sum of one dollar; on each appeal to the high court of chancery, two dollars; on each writ of error, supersedeas, and *habeas corpus cum causa*, or *certiorari*, issued from the general court, a district court, or high court of chancery, one dollar; on each appeal from any county court, or court of hustings, to a district court, one dollar; the said taxes shall by the respective clerks be taxed in the bill of costs; on each certificate under the seal of any county or corporation court, there shall be paid a tax of one dollar. No writ, subpœna, nor any writ of error, supersedeas, *certiorari*, or *habeas corpus cum causa*, shall be issued, or declaration in ejectment filed by any clerk, unless the taxes hereby imposed thereon, be first paid down. In all appeals, no transcript of the record shall be delivered to the appellant by the clerk of the court, or forwarded by him to a superior court before the tax imposed thereon be paid, nor shall any certificate under the seal of any county or corporation court be granted, until the tax thereon shall have been first paid to the clerk keeping such seal. There shall be paid forty-two cents for every transfer of a surveyor's certificate for land, to be collected by the register of the land-office before the issuing of the patent; for every attestation, protestation, and all other instruments of publication from a notary public under his seal of office, forty-two cents, to be collected and accounted for by the said notary public, and one dollar for each certificate under the seal of the commonwealth, to be collected by the clerk of the council, before the delivery of such certificate, which last mentioned taxes shall be accounted for and paid in the like manner, and with the like commission for collecting as is directed in the case of other taxes imposed by this act.

certificates under seals of courts,

transfers of surveys, notaries, attestations and certificates under the seal of the commonwealth.

This act shall commence and be in force, from and after the passing thereof.

CHAP. III.

An act for appropriating the public Revenue.

(Passed the 26th of December, 1792.)

Aggregate fund;

SECT. 1. *BE it enacted by the General Assembly*, That the arrearages of the revenue taxes, which by an act of the last session of Assembly, intituled, "An act for appropriating the public revenue," were made to constitute the aggregate fund, shall still continue to constitute the said fund, and remain charged with the payment of all debts heretofore charged thereon, and shall further be charged with all warrants to be issued by the auditor of public accounts in the year one thousand seven hundred and ninety-three, for interest on any debt due by this Commonwealth, and with all sums of money directed to be paid by the present General Assembly, for which no other provision has been made, and all warrants and other facilities which have been heretofore receivable in discharge of the respective taxes, which constitute the aggregate fund, and all warrants, with the payment of which the aggregate fund is charged by this act, may be paid in discharge of the taxes which constitute the said fund; and the sheriffs or collectors of the revenue taxes which constitute the said fund, shall on payment thereof into the public treasury, have credit for the same accordingly; the monies which may be paid into the treasury, in discharge of the taxes which constitute the said fund, and also the money which may be received on sales of tobacco, paid in discharge of the same, or so much thereof as shall be necessary, shall be paid by the treasurer to the holders of warrants on the said fund at certain periods. And to the end that all holders of such warrants, may receive in proportion to their respective claims, the treasurer shall give in the Virginia Gazette, six weeks previous notice of the time, when payment is to be made, in order that such warrants may be previously registered, and the money belonging to the said fund duly apportioned amongst them.

charges thereon.

Former appropriations continued.

SECT. 2. *And be it further enacted*, That all taxes and arrearages of taxes, except those constituting the aggregate fund, shall continue as appropriated by the aforesaid act of the last session of Assembly, intituled, "An

act for appropriating the public revenue;" and that all branches of revenue which shall arise to the Commonwealth, between the last day of December, one thousand seven hundred and ninety-two, and the first day of January, one thousand seven hundred and ninety-four, shall be appropriated to the support of civil government, and for the contingent charges thereof; and shall also be charged with the payment of all unsatisfied warrants charged on the said taxes and arrearages of taxes by the aforesaid act of last session of Assembly, of warrants which shall be hereafter issued for expences attending criminal prosecutions; for the state's shares in the Patowmac, James River, and Dismal Swamp canal companies; for the hospital for the reception of persons of unsound mind; to the directors of the public buildings; for erecting public buildings at the federal seat of government on the Patowmac; for the expences attending the arsenal at the Point of Fork; for all pensions allowed by this Commonwealth; and for expences which may accrue, by order of the executive, in defence of the western frontier. And if the funds herein appropriated to the payment of the officers of civil government, and of warrants issued by direction of the executive for the contingent purposes thereof; on account of the state's shares in the Patowmac, James River, and Dismal Swamp canal companies; for the hospital for the reception of persons of unsound mind; for erecting the public buildings at the federal seat of government on Patowmac; for all pensions due by this Commonwealth, and for expences which may accrue, by order of the executive, in defence of the western frontier, should not be productive early enough for those purposes, it shall be lawful for the executive to direct the treasurer to borrow as much money as shall be deficient, out of any other funds, and to replace the same as soon as possible.

Charges on the revenue of 1792.

Deficiency in certain funds to be supplied by borrowing from others.

SECT. 3. So much of every act of Assembly as comes within the purview of this act, shall be, and the same is hereby repealed.

Repealing clause.

SECT. 4. *And be it further enacted*, That it shall be lawful for the treasurer to pay to the agent of Caron de Beaumarchais, on warrant or warrants from the auditor, military, or other certificates of the sinking fund dated prior to the first day of January, one thousand seven hundred and ninety, to the amount of the liquidated claim of the said De Beaumarchais, and in like manner to any

Certificates in the sinking fund to be exchanged for others in the hands of certain creditors

other public foreign creditor willing to accept of such payment; and also to exchange certificates of the said fund of a prior date to the said period, for any of the certificates of this Commonwealth, dated subsequent to the first day of January one thousand seven hundred and ninety, and bearing an interest of six per centum.

SECT. 5. This act shall commence in force from and after the passing thereof.

CHAP. IV.

An act for regulating the militia of this Commonwealth.

(Passed December the 22d, 1792.)

Preamble.

SECT. 1. WHEREAS the Congress of the United States did at their last session pass an act, intituled, "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States;" and it is expedient for this legislature to carry the same into effect, so far as it respects this state:

Arrangement of the militia in brigades and divisions; (*a*) See also the 16 § of the 1 Chap. of the acts of 93.

SECT. 2. (*a*) *Be it therefore enacted*, That the counties of Accomack, Northampton, Princess-Anne, and Norfolk, shall compose one brigade; the counties of Nansemond, Isle of Wight, Southampton, Surry, Sussex, and Prince-George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New-Kent, Henrico, and Hanover, one brigade; the counties of Gloucester, Mathews, Middlesex, Essex, King William, King and Queen, Lancaster, Northumberland, Richmond, and Westmoreland, one brigade: and the said brigades shall compose one division. That the counties of Loudoun and Fairfax shall compose one brigade; the counties of Fauquier, Prince William, Stafford, and King George, one brigade; the counties of Culpeper, Orange, Spotsylvania, and Caroline, one brigade; the counties of Louisa, Goochland, Fluvanna, Albemarle, and Amherst, one brigade: and the said brigades shall compose another division. The counties of Frederick and Berkeley, shall compose one brigade; the counties of Rockingham, Au-

gusta, and Shenandoah, one brigade; the counties of Wythe, Russel, Washington, Lee, Grayson, and Montgomery, one brigade; the counties of Botetourt, Rockbridge, Greenbrier, Bath, and Kanawha, one brigade; the counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia, and Ohio, one brigade; and the said brigades shall compose another division. The counties of Henry, Patrick, Franklin, Campbell, and Bedford, shall compose one brigade; the counties of Pittsylvania, Halifax, Charlotte, and Prince Edward, one brigade; the counties of Dinwiddie, Greensville, Brunswick, Lunenburg, and Mecklenburg, one brigade; the counties of Chesterfield, Amelia, Nottoway, Powhatan, Cumberland, and Buckingham, one brigade; and the said brigades shall compose another division.

In regiments and battalions.

SECT. 3. *And be it further enacted*, That the counties of Berkeley, Culpeper, Loudoun, and Frederick, shall compose two regiments, and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of King & Queen and King William, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Northumberland and Lancaster, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Richmond and Westmoreland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Powhatan and Cumberland, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Russell and Lee, shall each compose one battalion, which two battalions shall compose one regiment; and the counties of Charles City and New-Kent, shall compose each one battalion, which two battalions shall constitute one regiment; the counties of Elizabeth City and Warwick, one battalion, and the counties of York and James City, one battalion, which two battalions shall compose one regiment; and each of the other counties in this Commonwealth, and also the city of Richmond, and borough of Norfolk, shall compose each one regiment and two battalions.

Officers, how

SECT. 4. *And be it further enacted*, That the General

to be appointed.

Assembly shall by joint ballot of both houses, appoint an adjutant-general for the militia of this state, and also a major-general to each division, and a brigadier-general to each brigade; which major-generals and brigadiers, shall reside within the limits of their respective commands. Each major-general shall appoint his own aids de camp, and each brigadier-general his own brigade inspector, who shall also reside within the limits of their respective divisions and brigades.

Officers to be recommended by grades.

SECT. 5. *And be it enacted*, That the courts of the several counties and corporations, shall from the field and other officers who at present hold commissions in the militia of the respective counties and corporations, proceed to recommend to the executive, the officers necessary to complete the regiments and battalions and companies, pursuant to this act, by grades and seniority; and the persons so recommended, shall be commissioned by the governor, agreeable to the constitution of this state.

Officers not recommended by the county courts to become supernumeraries.

SECT. VI. All persons holding commissions under the late militia laws of this state, and who shall not be recommended by their respective courts, shall be considered as supernumerary officers, and may be recommended by the respective county and corporation courts to supply vacancies hereafter happening in the officers of the militia.

Commissioned officers to meet twice in every year to be trained.

SECT. 7. And whereas it will be productive of considerable advantages to the disciplining the militia, to have frequent meetings of the commissioned officers of the several regiments and battalions: *Be it enacted*, That the commissioned officers of the several regiments and battalions shall meet twice in every year, for the purpose of being trained and instructed by the brigade inspector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus assembled, shall each continue two days and no longer, for every time they shall be called out. Every officer failing to attend such meeting on being summoned (not having a reasonable excuse, to be adjudged of by a court-martial) shall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Divisions, brigades and regiments to be numbered and

SECT. 8. It shall be the duty of the executive to number by ballot the several divisions, brigades and regiments, and cause the same to be registered in the office

of the adjutant-general; and every commission hereafter issued by the executive, shall express the number of the division, brigade or regiment respectively, to which the person to whom the same is directed shall belong. registered in the adjutant-general's office.

SECT. 9. *And be it further enacted*, That the commanding officers of regiments, battalions, and companies, to be appointed and commissioned by virtue of this act, shall meet at their respective courthouses on some day in the month of March or April next, to be appointed by the commanding officers of regiments, then and there to divide their respective counties into districts for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively, herein-after to be appointed. Counties to be divided into districts for forming regiments, battalions and companies.

SECT. 10. *And be it further enacted*, That it shall be the duty of the commanding officers of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular rotine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly. Companies to be divided into divisions.

SECT. 11. *And be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the General Assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors and students at the college of William & Mary, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the Commonwealth; Persons exempted from militia duty.

keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

SECT. 12. And whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result.

A company of grenadiers, light infantry, or riflemen, to be annexed to each battalion.

SECT. 13. *Be it enacted*, That the governor with the advice of council, shall issue commissions for a captain, lieutenant and ensign to each battalion out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be inrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.

A company of cavalry and a company of artillery, to be annexed to each division.

SECT. 14. *And be it further enacted*, That the governor with the advice of council, shall and he is hereby empowered, to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorised and empowered to

enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same proportions to their respective ranks, enlist a company, to be denominated the company of cavalry. *Provided*, that the number of companies of artillery and of cavalry, shall not exceed one for each brigade. Proviso.

SECT. 15. *And be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:—"I "— do swear that I will be faithful and true to the "Commonwealth of Virginia, of which I profess myself "to be a citizen, and that I will faithfully and justly ex- "ecute the office of a in the "regiment of the militia of Virginia, accord- "ing to the best of my skill and judgment: So help me "God." Oaths of Officers.

SECT. 16. The adjutant-general shall have full power and authority to convene the brigade majors and inspectors, at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department, as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act. Adjutant-general may convene brigade-majors, and inspectors.

SECT. 17. There shall be a private muster of each company of grenadiers, light-infantry, riflemen, artillery, and cavalry, once in every two months, except in the months of December, January and February, in every year, and every other company, formed by virtue of this act, once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of May, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to Musters of the companies; Of the battalions;

Of the regiments;

the centre of the battalion, and a muster of each regiment in the month of October in every year, to be appointed by the brigadier general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be, to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of companies shall give notice of the regimental battalion and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade to the commanding officers of regiments, at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing shall forfeit and pay three dollars for every such failure, to be recovered as other fines

Notices of them, by whom and how to be given.

Penalties on officers, and serjeants failing to give the notices;

hereafter to be established. Every officer and soldier shall appear at his respective muster field on the day appointed by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster to the commanding officer of his battalion, including those which may occur on that day. And every commanding officer of a battalion, shall at their regimental or battalion musters (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; *Provided*, that the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit: "I "_____ do certify that the returns "hereunto annexed, contain all the delinquencies which "have occurred in my company since my last return, "having examined the same as the law directs." And to the battalion returns shall be added, "and that the "reports which accompany them, are all which have "been made by the commanding officers of battalions."

Rolls to be called, and delinquencies noted.

Form of return of delinquencies.

SECT. 18. Every captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Returns of companies;

Of battalions;

Of regiments;

SECT. 19. Each captain or commanding officer of a company, shall appoint to his company four serjeants,

Drummer and fifer to be appointed to

each company.

four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion, and all vacancies, which may thereafter happen, shall be filled up by appointments in like manner.

The officer next in rank to take command, in the absence of his superior.

SECT 20. In all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

Militia to be exercised.

SECT. 21. It shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline prescribed by Congress, under pain of being arrested and tried for breach of their duty, and for this purpose the said officers are hereby authorised to order the most expert and fit officer in their respective commands, to perform that duty.

Officers to be furnished with printed copies of the rules of discipline.

SECT. 22. And to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorised and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one ; and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

Officers may be arrested for misbehaviour.

SECT. 23. Any officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

Non-commissioned officers and soldiers may be confined or bound

SECT. 24. If any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board directed by this act to be held, the commanding officer, court, or board,

may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

neck and heels for disobedience or mutiny.

Sect. 25. If any bystander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

Bystanders may be confined for molesting any officer or soldier on duty.

Sect. 26. The commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

Colours to be procured;

Drums and fifes, or bugle horns.

Sect. 27. *And be it further enacted*, That the governor, with the advice of council, be authorised and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

Militia to be called forth in case of invasion or insurrection.

Sect. 28. The lieutenant colonel commandant, or commanding officers of regiments from which such detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein-after appointed for

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

Articles impressed to be valued,

and the owners paid therefor if lost;

enquiring into delinquencies: And to the end that if any article impressed be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts.

Officers answerable to the public, if lost through neglect.

The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorised and required to prosecute a suit against such officer for the recovery of damages for the use of the Commonwealth.

Executive to appoint officers when necessary.

SECT. 29. If it shall appear to the executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor, with the advice of council, is hereby authorised to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

Commanding officer in a county may order out militia in invasions or insurrections.

SECT. 30. If a sudden invasion shall be made into any county in this Commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorised and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same; and for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them as is directed in the case of musters.

Militia in service to be governed by the articles of war of the United States.

SECT. 31. Whenever any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war which govern the troops of the United States. And courts-martial shall be held as are therein directed, to be composed of militia officers only, for the trial of any person in the militia; but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary;

and when any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by the Congress of the United States to the troops in the service of the United States. Their pay and rations;

SECT. 32. *And be it further enacted*, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, appoint an officer, and so many men of the militia as to him shall seem necessary, not exceeding four, once in every month, or oftener if thereto required by such officer, to patrole and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress, or owner, and carry them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrole, the officer of every party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings of such patrole; and such captain shall once in every month deliver such patrole returns to the commanding officer of his battalion, by whom they shall be certified and laid before the next court-martial; and if they shall adjudge the patrollers to have performed their duty according to law, the said court shall certify the same to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrole; and every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay thirty dollars; and every person appointed to patrole, failing to do his duty, shall forfeit and pay three dollars for every such failure; which fines, shall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the several fines and penalties by this act directed. Patrollers to be appointed; Their duty; Their pay Penalty for failing to do their duty.

Courts-martial to be held for the trial of officers;

SECT. 33. *And whereas* it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon: *Be it therefore enacted*, That the governor shall have power to arrest the major generals and all other officers for any misconduct whatever, and upon trial and conviction, may censure or cashier them; a lieutenant colonel commandant may arrest any officer under his command, and report him to the governor for trial, or at the option of such lieutenant colonel commandant, a general court-martial, to consist of thirteen officers, may by his order be held within the limits of his regimental district, for trial of such as shall be under the rank of a field officer. The president of the said court shall be a field officer, and six at least of the members shall be captains, and where there is not a sufficient number of officers in any regiment to constitute a court where the arrest is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from such regiment as will be sufficient to make a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive, if he shall think proper, in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer, or soldier, offending, shall be tried by a like general court martial, and may, on conviction, be censured or fined at the discretion of the court. For obtaining the necessary evidence for the trials aforesaid, the governor or the commanding officer of the regiment (as the case may be) shall issue his summons, and any person so summoned failing to attend, shall forfeit and pay, upon a summons from the governor, thirty dollars, and upon a summons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongst other delinquencies, to the court aforesaid.

Officers, by whom to be arrested.

Appeals may be made from the sentence of a court-martial to the executive;

Evidence, how to be procured.

Courts for assessment of fines, when and where to be held;

SECT. 34. *And be it further enacted*, That the commanding officers of regiments shall, on some day in the months of May and October, not exceeding fifteen, nor less than ten days after their regimental and battalion musters, order the commanding officers of battalions and of companies, to meet at the places where their last battalion musters respectively were held, a majority of

whom shall form a court of enquiry and assessment of fines, and it shall be the duty of the lieutenant colonel commandant to preside at such boards, and in case of his absence by sickness or otherwise, the next officer in rank shall preside. The said court shall take the following oath, to be administered by the senior officer present, and afterwards by any other officer of the said board to him, to wit: "I do swear, that I will truly "and faithfully, enquire into all delinquencies which ap- "pear on the returns to be laid before me, and will assess "the fines thereon as shall seem just, without favor, par- "tiality, or affection; So help me GOD." The lieutenant colonel commandant shall then lay before the said court all delinquencies, as directed by this act, whereupon they shall proceed to hear and determine on them.

Fines to be collected by the sheriffs;

SECT. 35. All fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof certified by the clerk of the said court, and delivered to the sheriff, on or before the first day of January, in every year, who shall give his receipt therefor, and account for the same to the lieutenant colonel commandant, or his successor, and be allowed the same commissions as for other public monies, on or before the first day of November in the same year; and on failure, the commanding officer, or his successor, shall, on ten days previous notice, obtain judgment for the same in the county or corporation court with costs; and should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorised to make distress and sale therefor, in the same manner as is directed in the collection of the taxes.

by distress, when necessary;

Officers to render accounts of fines received.

SECT. 36. The commanding officer of every regiment shall on or before the thirty-first day of December, in every year, render to the executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his disbursements; and if there shall remain any money in his hands, the same shall be paid into the treasury in aid of the contingent fund.

Fines to be paid for delinquencies; By a commanding officer of a regiment:

SECT. 37. And for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By a lieutenant-colonel commandant, or commanding officer of a regiment, for failing to take any oath, to summon any court or board, to attend any court or board, to transmit any

recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a regimental or battalion muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay seventy dollars; failing to send into actual service any militia legally called for, or to turn out his militia upon any invasion or insurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence or neglect, thirty dollars; failing to call forth from his battalion with due dispatch, any detachment of men and officers, as shall be required from time to time by the commanding officer, or any call from the governor, invasion of or insurrection in his county, or requisition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he shall forfeit and pay for each and every such offence and neglect, twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on any such occasion to repair to the place of rendezvous, he shall forfeit and pay forty dollars. By a subaltern officer for failing to take any oath, to attend any court, or muster armed as directed, for each and every such offence he shall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay twenty dollars: And moreover the said officers, for any of the said offences, shall be liable to be arrested and tried for the same as military offenders. By a non-commissioned officer or soldier, for failing to attend at any muster, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous when ordered, upon any call from the governor, invasion of, or

By a major;

By a captain;

By a subaltern;

By a non-commissioned officer or private.

insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

Arms, &c. of militia exempted from executions, distresses, &c. and their persons from arrests, at musters and in service.

SECT. 38. All arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

SECT. 39. The commanding officers of regiments shall on the day of his regimental muster first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster-ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards herein before directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular rotine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

Richmond, Williamsburg, and Norfolk militia to be under the like regulations as the militia of the counties.

SECT. 40. The militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

SECT. 41. The commanding officers of regiments are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

Courts martial may remit fines;

SECT. 42. Any court martial may for good cause shewn, remit any fines imposed by a former court martial, provided that not more than two courts martial shall have intervened between such imposition and application for remission.

And exempt persons from militia duty for bodily infirmities.

SECT. 43. Courts martial may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

Courts martial for the trial of general officers.

SECT. 44. For the trial and punishment of the adjutant general, major generals, and brigadier generals, *Be it enacted*, That any major general or brigadier general offending under this act, shall be arrested and tried in the following manner, viz. A major general shall be arrested by the commander in chief of the state upon any

misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court martial, to consist if convenient of the remaining major generals, the brigadier generals of the division, over which such major general is appointed, or as many of them as can conveniently attend, and as many lieutenant colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court martial for the trial of such offenders. Any brigadier general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major general of the division to which he belongs, and tried by a court martial, to consist of one major general, and not more than four brigadiers, and as many lieutenant colonel commandants, majors, and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

By whom they may be arrested.

Salaries of the adjutant general and brigade inspectors.

SECT. 45. *And be it further enacted*, That the adjutant general shall be allowed four hundred dollars per year; and that each brigade inspector shall be allowed one hundred and fifty dollars per year, for the duties herein required of them, to be paid by the treasurer, on warrant from the auditor, who is hereby authorised and required to grant the same quarter yearly, on proper application being made.

SECT. 46. This act shall commence and be in force from and after the passing thereof.

CHAP. V.

An act for reducing into one, the several acts concerning Executions, and for the relief of Insolvent Debtors.

(Passed December the 13th, 1792.)

Writs of execution.

SECT. 1. *BE it enacted by the General Assembly*, That all persons recovering any debt, damages or costs, by the judgment of any court of record within this Commonwealth, may, at their election, prosecute writs of *fieri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for the taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the Commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, that executions may be issued from the general court returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof. *And provided also*, that if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable, at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis*, *mutandis*, to wit:

How to be issued and returned.

Fifteen days at least between teste and return.

From the general and district courts, when returnable.

Forms of the writs.

"A FIERI FACIAS IN DEBT.

Against goods and chattels

"The Commonwealth of Virginia, to the sheriff of " county, greeting: WE command you, that "of the goods and chattels of A. B. late in your bailiwick, you cause to be made the sum of , "which C. D. lately in our court hath recovered against him for debt; also the sum of , which to the said C. D. in the same court were adjudged for his damages, as well by reason of detaining

Debt.

"the said debt, as for his costs in that suit expended, "whereof he is convicted, as appears to us of record, "and that you have the said before the "judges or justices (as the case may be) of our said "court the . day of , to render to "the said C. D. of the debt and damages aforesaid. And "have then there this writ. Witness, &c."

The same in case, upon a Promise:

Case, assumpsit. As before unto "for his damages, which he "sustained, as well by reason of his not performing a "certain promise and assumption to the said C. D. by "the said A. B. lately made, as for his costs by him "about his suit in this behalf expended, &c."

IN TRESPASS.

Trespass. As before unto "for damages, as well by "occasion of a certain trespass by the said A. B. to the "said C. D offered as for his costs, &c."

If for the defendant, say,

For the defendant. "For his costs about his defence in a certain action "at the suit of the said," &c.

IN COVENANT.

Covenant. As before unto "for damages, &c. by occa- "sion of a breach of a certain covenant between the said "A. B. and C. D. lately made, &c."

The form of a writ of "ELEGIT."

Against lands and tenements. "The Commonwealth, &c. greeting: Whereas A. B. "at our court, &c. before our judges (or justices) "held, hath recovered against C. D. the sum of , "which to the said plaintiff was adjudged for a certain "debt or damages," as before ;" "and the said A. B. hath chosen to have delivered to "him all the goods and chattels of the said C. D. saving "only the oxen and beasts of his plough, and also a "moiety of all his lands and tenements in your baili- "wick, to have and to hold the goods and chattels afore- "said as his own proper goods, and the said moiety as

" his freehold to him and his assigns, until he shall have
" levied thereof the debt and damages aforesaid: There-
" fore we command you that you cause to be delivered,
" all the goods and chattels of the said C. D. saving the
" oxen and beasts of his plough, and also a moiety of all
" his lands and tenements in your bailiwick, whereof he
" at the day of obtaining the said judgment was seized,
" or at any time afterwards, by reasonable price and ex-
" tent, to have and to hold the said goods and chattels,
" to him the said A. B. as his own proper goods and
" chattels, and the said moiety as his freehold, to him
" and his assigns, until he shall have levied thereof the
" debt and damages aforesaid, and that you certify our
" said judges (or justices) under your own seal, and the
" seals of those by whose oath you shall make this ex-
" tent and appraisement, how you execute this writ, the
" day of . And have then there this writ,
" &c."

A CAPIAS AD SATISFACIENDUM.

" The Commonwealth, &c. greeting: We command Against the body.
" you, that you take A. B. late of , if he be
" found within your bailiwick, and him safely keep, so
" that you have his body before our judges (or justices)
" of our court, &c. day of
" to satisfy C. D. the sum of which the said
" C. D. hath recovered against him for debt, also, &c."
as before.

IN CASE, TRESPASS, or COVENANT, as in the FIERI FACIAS.

Which said writs so issued, shall be executed by the sheriff or other officer to whom the same shall be directed, and shall be returned according to the respective forms hereafter mentioned, to wit: Forms of the returns.

The return of a FIERI FACIAS.

" By virtue of this writ to me directed, I have caus- Fieri facias executed.
" ed to be made the within mentioned sum of , of
" the goods and chattels of the within named A. B. which
" said sum of before the judges (or justices) within
" mentioned, at the day and place within contained, I
" have ready, as that writ requires."

OR,

Where no goods.

"The within named A. B. hath no goods or chattels "within my bailiwick, whereof I can make the sum "within mentioned."

OR,

Where part is levied.

"By virtue, &c. I have caused to be made of the "goods and chattels of the within named A. B. the sum "of , which I have ready to render to the within "named C. D. in part of the debt and damages within "mentioned: And I do further certify, that the said A. B. "hath no more goods and chattels within my bailiwick, "whereof at present I can make the residue of the said "debt and damages, as by the said writ is required."

Return of a writ of ELEGIT.

Elegit executed.

"Inquisition indented, taken at , in the "county aforesaid, the day of , in the "year of our Lord , before me E. F. she- "riff in the county aforesaid, by virtue of a writ to me "directed, and to this inquisition annexed, and by the "oath of A. B. C. &c. good and lawful men of my bai- "liwick, who being charged and sworn upon their oath "do say, that A. B. in the said writ to this inquisition "annexed, named, the day of the caption of this inqui- "sition, was possessed of the goods and chattels follow- "ing, as of his own proper goods, to wit, of "the price of which I, the said sheriff, have "caused to be delivered to the same C. D. to hold to "him as his own proper goods and chattels, in part of "satisfaction of his debt and damages aforesaid, in the "said writ mentioned; and further the said jurors upon "their oath do say, that the said A. B. at the time of "rendering the judgment aforesaid, was seized in his "demesne, as of fee, of and in [here name the houses "and lands] with the appurtenances of the annual value "in all the issues beyond reprises of pounds, " acres of which, or thereabouts, are a true "and equal moiety of all and singular the lands, tene- "ments, and hereditaments whatsoever, in the county "aforesaid, of the said A. B.; which said moiety, I the "said sheriff, the day aforesaid, to C. D. in the said writ

" named, at a reasonable extent, have delivered to hold " to him and his assigns, as his freehold, according to " the form of the act in that case made and provided, " until he shall have levied the residue of the debt and " damages aforesaid, as the writ aforesaid requires; and " further the said jurors upon their oath do say, that the " said A. B. at the time of giving the judgment afore- " said, had not, nor at the day of taking this inquisition, " hath any other or more goods and chattels, lands or te- " nements in the county aforesaid, to the knowledge of " the jurors aforesaid. In testimony whereof, as well I " the said sheriff, as the jurors aforesaid, to this inqui- " sition have severally put our seals, the day, year, and " place above mentioned."

Return of a CAPIAS AD SATISFACIENDUM.

" By virtue of this writ to me directed, I have taken " the within named A. B. whose body before the judges " (or justices) within named, at the day and place with- " in contained, I have ready to satisfy C. D. of the debt " and damages within mentioned, as within to me is " commanded." Capias executed.

OR,

" The within named A. B. is not found in my baili- wick." Not executed.

Sect. 2. When any writ of execution shall issue, and the party at whose suit the same is issued, shall afterwards desire to take out another writ of execution at his own proper costs and charges, the clerk may issue the same, if the first writ be not returned and executed; and where, upon a capias ad satisfaciendum the sheriff shall return that the defendant is not found, the clerk may issue a fieri facias; and if upon a fieri facias, he shall return that the party hath no goods, or that only part of the debt is levied, in such case it shall be lawful to issue a capias ad satisfaciendum upon the same judgment; and where part of a debt shall be levied upon an elegit, a new elegit shall issue for the residue; and where nihil shall be returned upon any writ of elegit, a capias ad satisfaciendum, or fieri facias may issue, and so vice versa; and where one judgment is obtained against se- In what manner another execution may be issued, where the first has not been served, or has not been satisfied.

veral defendants, execution thereon shall issue as if it were against one defendant, and not otherwise.

Tenant by elegit, if evicted may have a scire facias against his debtor,

SECT. 3. If a tenant, by elegit be evicted of his title in the lands, tenements, or hereditaments which he holds by virtue of any extent thereof, by judgment had against him, otherwise than by his own fraud or default, before satisfaction shall be made him for his debt, or damages. and costs, he shall and may have a writ of scire facias against the debtor, his heirs, executors, or administrators; and may thereafter sue out such other writ of execution for the residue of his debt or damages, and costs, as shall appear to remain unpaid, as if no execution had been theretofore issued.

and another execution for his debt, &c.

No extent to be avoided for omission of part of the lands extendible.

SECT. 4. When any judgment or recognizance shall be extended, the same shall not be avoided or delayed by occasion that any part of the lands or tenements extendible are or shall be omitted out of such extent.

Saving remedy of contribution.

SECT. 5. Saving always to the party and parties whose lands shall be extended, his and their heirs, executors, and assigns, his and their remedy for contribution against such person and persons, whose lands are or shall be omitted out of such extent, from time to time.

Infants lands excepted.

SECT. 6. *Provided nevertheless*, That this act or any thing therein contained, shall not be construed to give any extent or contribution against any heir within the age of twenty-one years, during such minority of such heir, for or in respect of any lands to such heir descended, further or otherwise than might have been made before the making of this act.

If a debtor dies in prison, creditors may have new executions against his estate.

SECT. 7. If any person being in prison charged in execution, shall happen to die in execution, the party or parties at whose suit or to whom such person shall stand charged in execution, for any debt or damage recovered, his or their executors or administrators may after the death of the person so dying in execution, lawfully sue forth and have new execution against the lands and tenements, goods and chattels, or any of them, of the person so deceased.

Debtor may sell his lands for the benefit of his creditors at whose suit he is in execution.

SECT. 8. *Provided always*, That this act shall not extend to give liberty to any person or persons, their executors or administrators, at whose suit any such party shall be and die in execution, to have or take any new execution, against any the lands, tenements or hereditaments of such party dying in execution, which shall at any time after the said judgment or judgments be by him

sold in bona fide, for the payment of any of his creditors, at whose suit he shall be in execution, and the money paid or secured to be paid to any such creditors, with their privity, in discharge of his or their debts, or some part thereof.

Persons in execution delivered by privilege of the gen. assembly to return in execution when that ceaseth.

SECT. 9. If any person taken in execution be delivered by privilege of either house of Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

Executions from a county court may be served in any other county.

SECT. 10. Where judgment shall be obtained in any county court or other inferior court of record within this Commonwealth, for any debt or damages, and the person against whom such judgment shall be obtained, shall remove himself and his effects, or shall reside out of the limits of the jurisdiction of such court, it shall be lawful for the clerk of the court, where judgment was given, at the request of the party for whom the same was rendered, to issue any writ of fieri facias, or capias ad satisfaciendum, or any other legal or proper writ of execution or attachment for the non performance of a decree in chancery (as the case may require) in the form and under the the teste herein before prescribed, and to direct the same to the sheriff of any county, or serjeant of any corporation within this Commonwealth, where the defendant or debtor, or his goods shall be found, which said sheriff or other officer, to whom the same shall be directed, is hereby empowered and required to serve and execute the same, and shall make return thereof to the court where the judgment was given, in the manner herein before prescribed and directed.

Property in goods bound from delivery of execution to the officer.

SECT. 11. No writ of fieri facias or other writ of execution, shall bind the property of the goods, against which such writ is sued forth, but from the time that such writ shall be delivered to the sheriff, under sheriff, coroner, or other officer to be executed; and for the better manifestation of the said time, such sheriff, coroner, or other officer, his deputy or agent, shall upon the receipt of any such writ, without fee for doing the same, endorse upon the back thereof, the day of the month and year, when he received the same; and if two or more writs shall be delivered against the same person, in the same day, that which was first delivered, shall be first satisfied. [*This section extended by inflicting a penalty on neglecting to endorse on the writ, by the 11th sect. 3d Chap. Acts of* '93.]

Time of delivery to be endorsed by the officer.

Goods taken by execution, when and how to be sold.

SECT. 12. On all executions hereafter issued, the sheriff or other officer, having published notice of the time and place of sale, at the door of the court house of his county, on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction, the goods or chattels so taken, or so much thereof, as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same.

Officer may accept security for goods until the day of sale.

SECT. 13. *Provided always*, That if the owner of such goods and chattels, shall give sufficient security to such sheriff or officer, to have the same goods and chattels forth-coming at the day of sale, it shall be lawful for the sheriff or officer, to take a bond from such debtor, and securities, payable to the creditor, reciting the service of such execution, and the amount of the money or tobacco, due thereon, and with condition to have the goods or chattels forth-coming at the day of sale, appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor, until that time; and if the owner of such goods and chattels, shall fail to deliver up the same according to the condition of the bond, or pay the money or tobacco, mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond, 'till payment and costs, provided the obligors, their executors or administrators, or such of them, against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, or on any execution awarded on any bond which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security, either to have the goods forth-coming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco, mentioned in the execution, or the same be otherwise satisfied.

Proceedings on the bonds where the goods are not delivered.

No security to be taken on executions thereon or on replevy bonds.

SECT. 14. And for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

Forth-coming bonds to be returned within 60 days.

SECT. 15. If any sheriff or other officer, shall fail to deliver or return any bond taken for the forth-coming of property, by virtue of this act, within sixty days after the date thereof, to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law, against a sheriff or coroner failing to return an execution.

No security to be taken on executions against sheriffs for money received by them by virtue of executions,

SECT. 16. When execution shall issue against the estate of any sheriff or under sheriff, or their securities, upon a judgment obtained against such sheriff or under sheriff and securities, for money or tobacco received by such sheriff, or under sheriff, by virtue of any execution or process, levied or executed by him or them, or for any money collected or received by them in any manner as sheriffs; no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forth-coming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered: And for the better direction of such officer, the clerk issuing such execution shall endorse thereon, "that no security "of any kind is to be taken." In like manner, on all executions which may issue against any collector of the poor rates, his heirs, executors, or administrators, or against any overseer or overseers of the poor, his or their heirs, executors or administrators, on any judgment obtained, or which hereafter may be obtained against him or them, for or on account of any money or tobacco, which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse, "no security to be taken."

Or on executions against collectors of poor rates, or against overseers of the poor.

In what case slaves may not be seized.

SECT. 17. No sheriff or other officer to whom any writ of *fieri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *fieri facias*, shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco, provided there be shown to such sheriff or officer, by the defendant or any other person, sufficient other goods or chattels of such defendant within the bailiwick of such

sheriff or officer, upon which he may levy the debt and costs mentioned in such *fieri facias*.

Names of slaves taken by executions, to be endorsed thereon.

SECT. 18. Where any slave or slaves shall be taken in execution and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court, where such execution shall issue.

When a writ of venditioni exponas shall be issued.

SECT. 19. If the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following:

Form of the writ.

"The Commonwealth, &c. greeting: We command "you, that you expose to sale, those goods and chattels "of A. B. to the value of , which "according to our command you have taken, and which "remain in your hands unsold, as you have certified to "our judges (or justices) of our court, to sa- "tisfy C. D. the sum of whereof in our said "court he hath recovered execution against the said A. "B. by virtue of a judgment in the said court, and that "you have, &c."

Slaves and live stock taken by execution to be supported by the officers.

SECT. 20. When any sheriff or other officer, shall serve any writ of execution on slaves, horses or any live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock shall be sold, or otherwise legally discharged from such execution; and upon the return of any execution, the court may and shall, upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such slaves or stock; and the said officer shall, and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock.

Expense thereof to be paid out of the sales.

Jury to be impannelled to try the right to property under execution, when it is disputed. Finding of the jury not to be conclusive as to the rights of any.

SECT. 21. If any sheriff shall levy an execution on property, and a doubt shall arise whether the right to such property is in the debtor or not, such sheriff shall summon a jury, being freeholders or others qualified to serve as jurors in the district courts, to enquire into the right of property; and if such jury shall find the right of the property to be in the debtor, such finding, shall justify the sheriff in any action brought against him for taking and selling such property, or if the right to the property shall be found in any person other than the debtor, such finding, shall justify the sheriff in delivering up such property; saving to all persons claiming such property, the liberty of asserting their rights thereto, and such inquisition of the jury shall be returned to the court from whence such execution issued.

Where goods cannot be sold for ¾ths of their value the debtor may give bond and security to pay the debt, &c. in 12 months.

SECT. 22. If the goods or other estate taken in execution, cannot be sold for three-fourths of their value at the least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful, for the debtor or debtors, or any of them, to enter into bond with sufficient securities, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same, to such creditor, within twelve months: And on such bond being given, the sheriff or other officer shall restore to such debtor the goods or estate so taken, and when no such bond and security shall be offered by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three-fourths of their value at the least, the sheriff or other officer shall set up and sell the same for money or tobacco (as the case may be) to be paid at the end of twelve months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest, to such creditor

If such bond be not given, the officer may sell the goods on 12 months credit,

Tenor of the bonds.

SECT. 23. All and every bond or bonds, so taken in pursuance of this act, shall mention that the same was or were entered into, for goods or other estate taken in execution, and returned to the debtor, or sold to the obligor (as the case may be) and shall have the force of judgments, and shall also be assignable; and such sheriff or other officer taking such bond, shall deliver the same to the creditor, or his attorney, or return it to the office of the clerk of the court from whence such execution is-

To have the force of judgments.

sued, there to be safely kept, until demanded by the creditor or his attorney; and if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful for the creditor or his assignee, or the attorney of such creditor or assignee, to lodge the same with an affidavit, that the money or tobacco for which such bond was given, or part thereof, is still due, with the clerk of the court from whence the execution issued, and such clerk shall and may thereupon issue an execution for so much as shall appear from the said bond and affidavit to be still due; and upon such execution the sheriff or other officer shall not take any security for the payment of the money or tobacco at a future day, but shall levy the same immediately, and sell the property on which the execution shall be so levied, for the best price that can be had for the same.

Proceedings to be had thereon.

Where the obligors or obligees die.

SECT. 24. If any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or assignee of any such obligee (as the case may be) shall die before such bond shall be fully paid, it shall and may be lawful for the clerk of any court within this Commonwealth, upon the application and oath of the executors or administrators of any such obligee or assignee, that the amount of such bond is not discharged, to issue a writ of execution against every such obligor or obligors, his or their executors or administrators, and to endorse thereon that "no security is to be taken;" any law to the contrary notwithstanding.

Executions thereon, issued after payment of the money may be quashed.

SECT. 25. *Provided*, That if on return of such execution the debtor can prove the payment of the money for which such execution was levied, either to the assignee or original obligee, before notice of such assignment, (as the case may be) it shall and may be lawful for the court to quash such execution, or give such other judgment therein as to them shall seem right, and the person in whose name such execution issued, shall moreover be liable to the action of such debtor for damages. And for the better direction of such sheriff or other officer, the clerk shall endorse upon the back of such execution that "no security shall be taken." *Provided*, That nothing in this act contained, shall be construed to extend the right of giving security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of

In what cases such bonds shall not be taken.

sale, to the defendant or defendants, in any judgment or execution not exceeding the sum of five dollars; or to any execution against a sheriff, coroner, public collector, or other person legally authorised to receive any part of the public revenue or their securities; or to any execution against any such officer or his securities, for money received by him under an execution or other process; or for any money or tobacco collected or received by him or them in any manner as sheriffs or public collectors; nor to attornies receiving the money of their clients; nor to securities under an act, intituled "An act to empower securities to recover damages in a summary way."

Separate bond for the surplus to be taken to the debtor.

SECT. 26. Wheresoever on a sale under execution upon twelve months credit, the amount of such sale shall exceed the principal, interest, and costs, the sheriff or coroner (as the case may be) shall take a separate bond, with sufficient security from the buyer or buyers, for the payment of such excess or surplus to the debtor with legal interest, at the end of twelve months from the date thereof, and it shall be expressed in the said bond, that it was given for a surplus or excess as aforesaid, and the said sheriff or coroner (as the case may be) shall deliver every bond so taken to the debtor, his agent, attorney, or other legal representative, or return it to the clerk's office; and it shall have the force of a judgment, be assignable, and in all things concerning the same, be proceeded on in like manner as is above prescribed in case of bonds given to a creditor. And if the sheriff or coroner (as the case may be) shall fail to deliver or return as aforesaid, any bond so taken, within thirty days from the date thereof, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner, as is directed by law against a sheriff or coroner failing to return an execution.

Commissioners to be appointed in each county to value property under execution and to judge of the sufficiency of securities

SECT. 27. The court of every county and corporation within this Commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made but in the presence of at least three of the said persons, except in the cases herein after mentioned. *Provided always*, that in any case where the creditor, his agent, or attorney, shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the next court to be held for the county or cor-

poration, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or render of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney, or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each day's attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit, under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned by the sheriff with the execution, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "That he will "truly and impartially execute the trust reposed in him "by this act."

Assignors of bonds given in pursuance of this act, responsible, if the obligors are insufficient.

SECT. 28. Where any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods, of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still

due, on which execution there shall be similar proceedings to those on an execution against the original obligors.

Debtors in execution may tender goods to the officer.

Sect. 29. Where any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed in the case of goods taken in execution upon a writ of *fieri facias*, and shall thereupon discharge such debtor out of custody. *Provided always*, that if such property so tendered shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum*, or *fieri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall, upon the return of the sheriff, of the insufficiency or incumbrance, as aforesaid, issue a new *capias ad satisfaciendum*, or *fieri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *fieri facias* issued in consequence of such return, to avail himself of the privileges of this act.

Nothing in this act to extend to distresses for rent.

Sect. 30. Nothing in this act contained, shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due, upon any demise, lease or contract, whatsoever.

Commissioners to be amenable to the county courts.

Vacancies, how to be supplied.

Sect. 31. The valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts, may be deprived of their office, for neglect of duty, or mal-feasance therein; and upon the death, resignation or removal from office, of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

Commissioners to be summoned to attend sales.

Sect. 32. When the sheriff shall, under any execution, have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the pro-

perty and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said commissioners attend, they shall, after the hour of two o'clock, choose one of the bystanders to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall, together, choose a third, to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts. *Provided always*, that the said commissioners shall not be summoned upon any *fieri facias*, where the debt or damages and costs, shall not exceed thirty-three dollars, unless the defendant, his agent, attorney, or other legal representative shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation.

Method of proceeding when they do not attend.

In what cases they shall not be summoned unless the defendants require it.

Valuation of property to be made known to any desiring it.

Sheriffs fee for taking the bonds.

Commissions.

SECT. 33. The valuers shall make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution. The sheriff or coroner (as the case may be) shall be allowed for taking the bonds to the creditor, sixty-two cents and no more; for proceeding to sell, if the property be actually sold or the debt paid, the commission of five per centum on the first three hundred and thirty-three dollars, or ten thousand pounds of tobacco, and two per centum on all sums above that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee, or reward shall be allowed upon any execution, except for the expense of removing and keeping the property taken.

No principal to be received as security.

SECT. 34. Upon actual sale of any property under this act, no principal debtor shall become the security.

SECT. 35. Wheresoever on a sale for cash or tobacco under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators, or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security or securities, his or their executors or administrators, shall every and each of them be liable to the like penalty and judgment in favour of the said debtor, as is prescribed and directed by law in favour of the plaintiff against the sheriff for not paying the principal, interest, and costs levied on an execution.

Surplus money to be paid to the debtor.

SECT. 36. When a sheriff or other officer under any execution, shall receive the whole or any part of the money or tobacco for which the said execution issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators, in every such case the sheriff or other officer, his executors or administrators, shall repay to the person or persons against whom such execution issued, his or their executors, administrators, or agent, the money or tobacco so received, or such part thereof as may be enjoined; and if any sheriff or other officer, his or their executors or administrators, shall fail or refuse, when required, to pay such sum of money or tobacco so received and enjoined, to the person having a right to demand the same, such sheriff or other officer and their securities, his or their executors and administrators, and every of them, shall be liable to the like penalty and judgment in favour of the person, his executors or administrators, by whom the said injunction is obtained, as is directed by law in favour of the plaintiff against the sheriff, for not paying money or tobacco, levied on an execution.

Money levied by execution to be restored to the defendant obtaining an injunction to the judgment.

SECT. 37. If any person or persons, taken or charged in execution, shall enter into bond with good and sufficient securities, under a reasonable penalty, upon condition that he or they shall not depart or go out of the rules or bounds of the prison to which he or they be committed, it shall be lawful for the sheriff or officer in whose cus-

When prisoners may have liberty of the rules.

tody such prisoner shall be, to permit him or them to go out of the prison and return at their pleasure.

Method of insolvent debtors discharge.

SECT 38. And for the relief of insolvent debtors, who shall be taken in execution, and to prevent the long imprisonment of unfortunate people, which can be no benefit, but rather a disadvantage to their creditors: *Be it further enacted*, That if any person shall hereafter be taken or charged in execution, in any suit commenced or prosecuted in any court of record within this commonwealth, it shall be lawful for any judge or justice of the said court, by warrant under his hand and seal, to command the jailor or keeper of the said prison, to bring before the said court, if sitting, or if not sitting, in case, be a superior court, before any two judges of the said court, at a certain time and place therein to be appointed, and if an inferior court, before any two justices of the said court, at their county courthouse, likewise on a certain day to be appointed in such warrant, the body or bodies of such person or persons so in prison as aforesaid, together with a list of the several executions with which he or she shall stand charged in the said jail: which warrant such jailer is hereby required to obey; and reasonable notice thereof shall be given to the party or parties, his or their executors, administrators, or agents, at whose suit such prisoner or prisoners shall be in execution: And every such prisoner, coming before the said court, judges, or justices (as the case shall be) shall subscribe and deliver in a schedule of his whole estate, and make oath and swear to the effect following, that is to say:

Prisoners oath.

"I, A. B. do, in the presence of Almighty God, solemnly swear, or affirm (as the case may be) that the schedule now delivered, and by me subscribed, doth contain to the best of my knowledge and remembrance, a full, just, true, and perfect account, and discovery, of all the estate, goods, and effects unto me any ways belonging, and such debts as are to me owing, or to any person in trust for me; and of all securities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my use, or to any other person or persons in trust for me; and that I, or any other person or persons in trust for me, have not land, money, stock, or any other estate, real or personal, in possession, reversion, or remainder, of the value of the debt or debts with which I am charged in

"execution; and that I have not directly or indirectly, "sold, lessened, or otherwise disposed of in trust, or con- "cealed all or any part of my lands, money, goods, stock, "debts, securities, contracts, or estate, whereby to secure "the same, or to receive or expect any profit or advan- "tage therefrom, or to defraud or to deceive any creditor "or creditors to whom I am indebted in anywise how- "soever. So help me God."

Sect. 39. Which schedule being so subscribed in open court, if taken in court, and if not, in the presence of two judges or justices, shall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in such schedule and taking such oath, such prisoner shall be discharged by warrant from such court, or from two judges or justices (as the case may be) which warrant shall be sufficient to indemnify such sheriff or officer against any escape or escapes, action or actions whatsoever, which shall or may be brought or prosecuted against him or them by reason thereof. And if any action should be commenced against any sheriff or officer for performing his duty, in pursuance of this act, he may plead the general issue, and give this act in evidence. *Provided always*, that notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgement at any time afterwards to sue out a writ of *scire facias* to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court, in which the said judgment shall have been rendered.

Prisoners discharge.

But creditors may afterwards have executions against his estate.

No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath unless a capias be issued by order of the court.

Sect. 40. All the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein as such prisoner hath and may lawfully depart withal, shall be vested in the sheriff of the county wherein such lands, tenements, goods or chattels shall lie or be found; and such sheriff is hereby authorised, empowered and required to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale shall be

Debtors estate, how to be disposed of.

by such sheriff or officer paid to the creditor or creditors at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner his or her necessary apparel and utensils of trade.

His debts and effects, how to be recovered.

SECT. 41. When any insolvent debtor shall be discharged, pursuant to this act, and the schedule subscribed and delivered in by such prisoner shall contain articles of money or tobacco due to such prisoner, or of goods, chattels or estates, belonging to him, and in the possession of any other, in that case the clerk of the court with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates, said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels or estates be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person for the money, tobacco, goods, chattels, or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels, or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions as in other cases, and to dispose of the money, tobacco, goods, chattels, or estates, so recovered, in the same manner as the estate contained in the schedule is hereby directed to be disposed of.

SECT. 42. *Provided always*, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels, or estates, mentioned in the schedule to be of the property of the prisoner, and in his possession, the sheriff or such prisoner at any

time after, unless barred by any of the acts limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels, and estates, as the garnishee is thereby ordered to pay or deliver.

Sheriff to retain his expences out of the debtor's estate;

SECT. 43. Every sheriff shall be allowed to retain out of the effects of such insolvent debtor before the distribution thereof, all reasonable expenses in recovering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee as shall be judged reasonable by the court; and if such effects be not sufficient, he shall be reimbursed such expenses by the creditor, or creditors if more than one, in proportion to their demands.

Insolvent debtor's prison fees to be paid by the creditor.

SECT. 44. Where such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison.

If he refuses, the prisoner shall be discharged.

But the creditor may afterwards recover such fees of the debtor.

SECT. 45. *Provided nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor, to recover such fees; and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels, of such prisoner, in case he or she shall afterwards become possessed of any.

SECT. 46. When any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only; which shall be paid by the creditor at whose suit such debtor was first taken.

The prison fees to be paid by the creditor at whose suit the debtor was first taken.

SECT. 47. An execution appearing to be duly served Execution

duly served, valid although not directed to any sheriff.

in other respects shall be deemed good, although it be not directed to any sheriff.

Distringas in detinue may be superseded as to the specific thing.

SECT. 48. If a distringas issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it respects the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of enquiry.

Sheriff liable when a replevy bond is quashed as faulty.

SECT. 49. If a replevy bond be quashed as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representatives.

Penalty on sheriff for failing to return an execution.

SECT. 50. *And whereas* doubts have arisen in what manner judgment shall be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof: *Be it enacted*, That where any writ of execution or attachment for not performing a decree in chancery shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same, to the office from whence it issued on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given upon the motion of the party injured, to fine such sheriff, coroner, or serjeant of a corporation, at their discretion, in any sum not exceeding five dollars per month for every hundred dollars contained in the judgment or decree on which the execution or attachment so by him detained was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine.

Method of proceeding against a sheriff failing to pay money levied by execution.

SECT. 51. If any sheriff, under sheriff, or other officer shall make return upon any writ of *fieri facias*, or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party to whom the same is payable or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment for not performing a decree in chancery for payment of any sum of money or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her, or them to escape with the consent of

such sheriff, under sheriff or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *fieri facias*, *venditioni exponas*, *capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *fieri facias*, or *venditioni exponas*, with interest thereon, at the rate of fifteen per centum per annum, from the return day of the execution, until the judgment shall be discharged. And such court is hereby authorised and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion.

Sect. 52. *And whereas* it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it further enacted*, That where any execution shall be delivered to the sheriff of any other county than that wherein the creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her or their agent, for the particular purpose of receiving the money on such execution, and for giving to and receiving from the sheriff any notices which may be necessary relating thereto; and payments made and notices given to such agent, shall be as effectual as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him. Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor; but such prisoner shall be discharged in those

Creditors to appoint agents in the counties in which executions are served.

cases respectively, without any notice to be given to the creditor so failing.

Executions may be issued on decrees in chancery.

SECT. 53. After obtaining a final decree for lands, slaves, or money, or things of a specific nature, in any court having chancery jurisdiction, the clerk of such court shall, upon the request of the party obtaining such decree, issue any writ of execution, either a *fieri facias*, *capias ad satisfaciendum*, *habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the Commonwealth, and bear teste and be signed by the clerk of the court; and all process so issued shall be executed and returned to the clerk's office from which the same issued from term to term on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force, to all intents and purposes, as similar process issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this, and in all cases relating to such process, the same powers as if the said process had issued upon a judgment obtained at common law. But nothing herein contained shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner in which he might avail himself before the passing of this act.

Goods on leased premises not liable to execution until the rent in arrear is paid or tendered.

SECT. 54. No goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, at will, or otherwise, shall at any time hereafter, be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises at the time of taking such goods or chattels in execution.

Proviso.

SECT. 55. *Provided nevertheless*, That such rent arrear do not amount to more than one year's rent; and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one year's rent, may proceed to execute his judgment; and

the sheriff or officer serving the same, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco so paid for rent, as the execution money.

Repealing clause.

SECT. 56. All acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred, prior to the commencement of this act.

Commencement and duration of this act.

SECT. 57. This act shall commence and be in force from and after the passing thereof, until the first day of January, in the year of our Lord one thousand seven hundred and ninety-four.

CHAP. VI.

An act reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies.

(Passed December the 19th, 1792.)

Fees to be received by

SECT. 1. *BE it declared and enacted, by the General Assembly*, That it shall and may be lawful for the clerk of the council, the clerk of the house of delegates, the register, the clerks of the general court, high court of chancery, court of appeals, district courts, clerks of corporation courts, and all county court clerks, sheriffs, coroners, constables, and surveyors, respectively, to demand, receive and take the several fees herein after mentioned and allowed, for any business by them respectively done, by virtue of their several offices, and no other fees whatsoever: That is to say—

TO THE CLERK OF THE COUNCIL.

The clerk of the council,

	Dols.	Cts.
For every testimonial,	1	67

TO THE CLERK OF THE HOUSE OF DELEGATES.

		Dols.	Cts.
The clerk of the house of delegates,	For a copy of an act of Assembly, if contained in one sheet,	1	0
	And for every sheet after the first,	0	75

TO THE REGISTER.

The register of the land-office,	For issuing a warrant of survey, and recording the same,	0	63
	For every warrant issued in exchange for another warrant, or where lands claimed under a former warrant, shall be recorded on a *caveat*, and recording the same,	0	63
	For receiving a plat and certificate, and giving a receipt for the same,	0	10
	For issuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,	1	26
	For every hundred acres, exceeding that of four hundred,	0	10
	For recording a plat and certificate of survey, if the quantity does not exceed four hundred acres,	0	42
	For every hundred acres exceeding that quantity,	0	10
	For entering a *caveat*, or for a copy thereof,	0	42
	For a copy of any grant or patent of land,	0	63
	For a search for any thing, or for reading the same, if a copy be not required,	0	21
	For keeping a regular account of warrants, examined and cancelled, to be paid by the treasurer, on the auditor's warrant, for each warrant,	0	6

TO THE SURVEYOR.

Surveyors,	For every survey by him plainly bounded as the law directs, and for a plat of such survey, after the delivery of such plat, where the survey shall not exceed four hundred acres of land,	5	25
	For every hundred acres contained in one survey above four hundred,	0	25
	For surveying a lot in town,	1	0
	And where a surveyor shall be stopped or hindered from finishing a survey by him begun, to be		

	Dols.	Cts.
paid by the party who required the same to be surveyed,	2	62
For running a dividing line,	2	10
For surveying an acre of land for a mill,	1	5
For every survey of land formerly patented, and which shall be required to be surveyed, and for a plat thereof delivered as aforesaid, the same fee as for land not before surveyed.		
And where a survey shall be made of any lands which are to be added to other lands, in an inclusive patent, the surveyor shall not be paid a second fee for the land first surveyed, but shall only receive what the survey of the additional land shall amount to.		
And where any surveys have been actually made of several parcels of land adjoining, and several plats delivered, if the party shall desire one inclusive plat thereof, the surveyor shall make out such plat for	1	5
For running a dividing line between any county or parish, to be paid by such respective counties or parishes, in proportion to the number of tithables, if ten miles or under,	10	50
And for every mile above ten,	0	30
For receiving a warrant of survey, and giving a receipt therefor,	0	17
For recording a certificate from the commissioners of any district of a claim to land allowed by them, to be paid by the claimant,	0	17
For making an entry for land, or for a copy thereof,	0	17
For a copy of a plat of land, or of a certificate of survey,	0	25

Assignees of surveys answerable for surveyor's fees where the assignor has not paid them.

SECT. 2. *Provided always*, That where any person shall employ a surveyor, and shall have received a plat of land surveyed, and afterwards shall assign the plat of land to any other, either before or after obtaining a patent for the same, if such person for whom the land was first surveyed, shall not have paid for the said survey, it shall and may be lawful for the sheriff or other officer of the county or corporation, where such assignee shall reside, at the instance of such surveyor, to make distress upon the slaves, goods and chattels of such assignee, in

like manner as is herein after provided for surveyors or other officers fees refused or delayed to be paid.

TO THE CLERK OF THE COURT OF APPEALS.

		Dols.	Cts.
Fees to be received by the clerk of the court of appeals,	The same fees with those of the high court of chancery and general court, for similar services.		

TO THE CLERK OF THE HIGH COURT OF CHANCERY.

The clerk of the high court of chancery,	For filing a bill, answer, replication, or other pleadings, each		26
	For a copy thereof, for every twenty words,		2
	For entering every decree,		18
	For drawing up every decree at large, entering the substance of the bill, answer and other pleadings, the substance of the evidence and the decree thereupon, for every twenty words,		2
	For filing the depositions in every cause in behalf of each party,		26
	For a copy of the depositions, for every twenty words,		2

TO THE CLERK OF THE GENERAL COURT.

The clerk of the general court,	For a copy of a warrant and inquisition of escheat,	1	92
	Or of an inquisition of escheat,	0	88
	For the probation of any testament and recording the same, for entering the orders for appraising the estate, recording the inventory, writing and sealing the *probat*, or any other matter concerning the same, or for a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraising the estate, recording the inventory, or for any other matter concerning the same where the appraisement doth not amount to above three hundred dollars,	3	50
	Or where the appraisement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
	Or where the appraisement exceeds fifteen hundred dollars, or there is no appraisement,	7	0

	Dols.	Cts.
For a copy of a *probat*, or commission of administration,	0	70
For recording the memorial of each bargain, sale, mortgage, or other conveyance, marriage settlement, or deed of trust, there shall be paid by the person to whom the same shall be made,	0	18
For recording the certificate of a *probat*, or administration,	0	18
For a copy of a will, or inventory,	0	70
And if the original is contained in more sheets than one, for a copy of every such sheet,	0	52
For a copy of an account,	0	35
For recording of a deed or deeds for the conveying or settling any lands or tenements only, or together with slaves or personal estate, or any way concerning the same, acknowledged or proved in the general court,	2	62
For a copy of such deed or deeds, with the endorsements thereon, and for a certificate of the acknowledgment or proof, and recording,	1	57
For issuing a commission to take the acknowledgment and privy examination of a *feme covert*, and recording it with the return of the commissioners,	0	87
For a copy thereof,	0	52
For recording a deed concerning slaves, or any personal matter only,	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording,	0	70
Provided however, that for a deed of *gift* for slaves only, or for a copy thereof, there shall be allowed only	0	35
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating thereto,	1	22
For a copy thereof,	0	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	0	70
For a copy of a bond with condition,	0	35

IN ACTIONS AND OTHER SUITS.

	Dols.	Cts.
For every writ of *error*, *supersedeas*, or *scire facias*,	0	43
For taking bond on issuing a writ of *error* or *supersedeas*,	0	43
For every other writ in any action or suit whatsoever,	0	35
For entering the sheriff's return, and entering the bail by him returned in the rule book,	0	35
For entering special bail,	0	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering security for costs for persons out of the country,	0	35
For filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of *error* or *supersedeas*,	0	35
For a copy of every declaration, plea or demurrer, or of errors,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court before trial,	0	18
For a copy of the same,	0	18
For filing papers for each party in any action or suit,	0	26
For docketing every cause on the docket (to be charged but once)	0	18
For every trial, swearing the jury and witnesses, and recording a general verdict,	0	87
For administering an oath or affirmation in court, except witnesses to a jury,	0	18
For every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict,	1	30
And where there is no jury, but a case agreed,	0	43
For swearing witnesses for each party in every cause where there is no jury,	0	26
For a copy of a case agreed, or notes of a special verdict,	0	43
For entering every order made in court, after verdict or demurrer joined,	0	18

	Dols.	Cts.
For entering every continuance on the court docket,	0	18
For entering every judgment,	0	18
For making a complete record of every cause, inserting a case agreed or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	0	2
For a copy thereof, or any part thereof, the same.		
For a recognizance in court,	0	35
For filing a return of a *habeas corpus*,	0	26
For filing the record on a writ of error,	0	26
For a copy of such record for every twenty words,	0	2

TO THE CLERK OF THE GENERAL COURT OR HIGH COURT OF CHANCERY,

[as the case may be.]

For taking a bond upon issuing injunctions,	0	43	The clerk of the general court, or the high court of chancery.
For every *dedimus potestatem*,	0	35	
For recording the report of auditors, when it is desired,	0	70	
For making a complete record of every cause, for every twenty words,	0	2	
For filing the return of a *certiorari*,	0	26	
For taxing the costs in any action or suit, and a copy thereof,	0	35	
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	0	2	
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required, if a copy be not taken,	0	18	
For every order to a witness for attendance, (to be charged to the party against whom the order goes)	0	18	

TO THE CLERKS OF THE DISTRICT COURTS.

For issuing a summons on a petition for lapsed-lands,	0	87	The clerks of the district courts.
For every order thereon,	0	26	
In all other cases, the same fees with those of the county courts, for similar services; and			

for all other services the same as those of the clerk of the general court.

TO THE CLERK OF A DISTRICT COURT, OR THE CLERK OF THE HIGH COURT OF CHANCERY,

[as the case may be.]

The clerks of the district courts or the clerk of the high court of chancery.

	Dols.	Cts.
For filing the record upon an appeal, or *supersedeas* from a county court, or any inferior court,	0	25
For a copy of such record, for every twenty words,	0	2

TO THE CLERKS OF THE COUNTY AND CORPORATION COURTS.

The clerks of the county and corporation courts.

For every writ in the nature of an *ad quod damnum*, (to be paid upon issuing such writ)	0	83
For recording the same with the inquisition thereupon, (to be paid before inquisition recorded)	1	92
For a copy of such writ and inquisition (to be paid down)	0	83
For taking a bond upon issuing injunctions in chancery,	0	35
For recording deeds of lease and release, for conveying or settling of lands only, or togegether with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	2	62
For a copy thereof,	0	95
For recording every deed of feoffment, or bargain and sale, or other single deed for conveying or settling lands and tenements only, or together with slaves and personal estate, bond to perform covenants, certificate of the proof or acknowledgment, as the case is, and all matters relating thereto,	1	75
For a copy thereof,	0	70
For issuing and recording a commission to take the acknowledgment and privy examination of a *feme covert*, with the certificate of the commissioners, if such commission be required,	0	70
For a copy thereof,	0	35
For recording a patent,	0	87

	Dols.	Cts.
For a copy thereof,	0	43
For recording a deed concerning slaves, or any personal matter or thing only, with certificate of its proof or acknowledgment,	0	70
For a copy thereof,	0	52
Provided however, that for a deed of *gift* for slaves only, or for a copy thereof, there shall be allowed only,	0	35
For recording a letter of attorney,	0	52
For a certificate of the proof or acknowledgment thereof,	0	18
For a copy of a letter of attorney with such certificate,	0	43
For recording a bond with condition, other than for performance of covenants in deeds of conveyance, or settlement of lands,	0	35
For a copy of a bond, with condition, other than an appeal bond, the same.		
For a copy of any other obligation or promissory note,	0	18
For the probation of any will or testament, and recording the same, entering the order or orders for appraising the estate, and for any other matter concerning the same, where the will shall be contained in one sheet,	0	70
And if the will is contained in more than one sheet, for every such sheet,	0	35
For a commission of administration of the goods of any person dying intestate, for entering the order or orders for appraisement, and for any other matters concerning the same,	0	70
For recording an inventory, where the appraisement doth not amount to more than thirty dollars,	0	18
Where the appraisement exceeds that value, and is under one hundred and fifty dollars,	0	87
And where it shall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
And where it shall exceed three hundred dollars, or there is no appraisement,	4	37
For a copy of a will or inventory, if the original is contained in one sheet,	0	52
If the original is contained in more sheets than		

	Dols.	Cts.
one, for a copy of every such sheet besides the first,	0	35
For recording the age of a servant or slave, adjudged in court,	0	18
For a certificate thereof if required,	0	14
For attending a court for examination of criminals and trial of slaves, if the court is held for that purpose (to be paid by the public)	3	50
For a copy of a list of tithables, in his precinct,	0	35
For the whole fee for an ordinary license and bond,	0	87
For a copy of the rates of liquors,	0	26
For a marriage license, certificate, and bond,	0	87
For every search for any thing above a year's standing if a copy be not taken,	0	8
For reading any thing, if a copy be not required,	0	8

IN ACTIONS AND OTHER SUITS.

For every writ, other than such as are herein particularly mentioned,	0	18
For a copy of such writ,	0	8
For every writ of execution, or *scire facias*,	0	26
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of attachment, in any action,	0	26
For recording the return thereof,	0	26
For an attachment granted by a justice of the peace, returnable to the court, and recording the return and putting the same on the docket,	0	35
For every summons to summon a garnishee on such attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cause, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering special bail,	0	18
For entering security for costs for persons out of the country,	0	18
For entering the appearance of the defendant or defendants, where there is no attorney, in any suit, except by petition,	0	8
For entering one or more attornies for each party,	0	8

	Dols.	Cts.
For every petition, declaration, or other pleadings, except in suits by petition for debt, *detinue*, *assumpsit*, or *trover*,	0	18
For a copy of any declaration, special plea, or demurrer,	0	18
For a copy of a plea, if the general issue,	0	5
For every trial, swearing the jury and witnesses, filing all papers, and recording a general verdict,	0	70
For every trial where there is a special verdict, or case agreed, and recording the same,	1	13
For swearing the witnesses in every other cause, where there is no jury or case agreed, except by petition,	0	18
For filing the papers of each party in every cause, except by petition, and where there is a jury or case agreed,	0	18
For a copy of a special verdict, or case agreed, and every thing therein set forth, or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof,	0	18
For filing a bill, answer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words,	0	2
For a commission to examine witnesses,	0	43
For attending and writing depositions taken against inspectors before justices of the peace,	1	75
For entering every decree in chancery,	0	26
For filing the depositions in any suit, for each party,	0	8
For every deposition taken in court,	0	18
For a copy of a deposition,	0	18
For administering an oath in court, not relating to the trial of any cause there depending, and certifying the same,	0	18
For every recognizance in court,	0	18
For entering the order or orders in any cause in one court,	0	26
For entering every order for attendance of witnesses,	0	18
For a copy of any order,	0	18

	Dols.	Cts.
For recording the report of a jury in the county, surveyor, auditor, or viewers,	0	35
For a copy thereof,	0	35
For taxing costs to any judgment or decree, where costs are recovered, or for a copy of a bill of costs, if required,	0	20
For a copy of an account,	0	18
For entering an appeal, and taking bond to prosecute it,	0	35
For a copy of the bond,	0	18
For returning an appeal and security to the office of the court of chancery, or a district court, (as the case may be)	0	52
For returning a writ of *error*, *supersedeas*, *certiorari*, or *habeas corpus*,	0	35
For a copy of the proceedings of the cause, wherein the appeal is granted, for every thirty words,	0	2
For recording the acknowledgment of satisfaction of a judgment,	0	18
For entering each order for a witness's attendance, (to be charged to the party in whose behalf the witness is summoned, and taxed in the bill of costs, if such party recover)	0	18
For a copy thereof, to be taxed and charged in like manner,	0	18
For an attachment thereon, to be charged to the party against whom the attachment shall be issued,	0	18
For the whole fee chargeable for every petition for debt, *detinue*, *assumpsit* or *trover*, and all the proceedings therein, including a copy of the judgment and taxing costs, if required, except the respective fees for summoning witnesses, entering attornies, for every order for continuance, and for issuing execution, where any of those matters happen,	0	87
For entering an attorney in such petitions, to be paid by the party by whom such attorney shall be employed, and not to be taxed in the bill of costs,	0	8
For a summons for several witnesses living in one county, if summonses for all be taken out at one time,	0	18

	Dols.	Cts.
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	0	2
For the acknowledgment and proof of any deed in the county court, and for certifying the same to be recorded in the general court,	0	52

Which said several fees shall be charged to the party at whose instance the business shall be performed, except where it is otherwise directed.

The commissioners of the high court of chancery.

SECT. 3. The commissioner or commissioners of the high court of chancery may issue their tickets for the sums allowed by the said court, for services performed by them under the orders of the said court, and deliver them to the respective sheriffs, at the same time the clerk of the said court is directed by law to deliver his tickets; and the several sheriffs shall collect and account for them in the same manner, and under the like penalties, and shall have the same allowance for collecting and for insolvencies, as are prescribed in the case of the clerk of the said high court of chancery.

Rules in taxing costs.

SECT. 4. If any plaintiff or defendant, or his, or her attorney, shall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cause, or of any common order made in such cause, the charge of such copies shall not be allowed in the bill of costs, although such party recover; and where more attornies than one shall be employed in any cause on one side, if such attornies take out more than one copy of any thing necessarily relating to the suit, yet no more than one copy shall be allowed in the bill of costs; neither shall the clerk tax any fee in the bill of costs for entering more than one attorney, although costs shall be adjudged against the adverse party.

For all public services of the clerk, viz. entering and issuing copies of orders for appointing surveyors of highways, appointing constables, grand juries, taking a list of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the list of tithables for the collector, and for entering and issuing the orders, except against guardians, where they shall stand out in contempt (to be charged to such

	Dols.	Cts.
guardian) and issuing the orders for recommending sheriffs and justices, and for processioning, and all other public services for which no particular fee is allowed (to be levied annually by the justices of the county)	25	0

In suits or motions against public debtors.

SECT. 5. And where a motion or suit shall be instituted against any person or persons for money due to the public, in the name of, or by the person authorised by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion or suit shall be instituted, shall and is hereby required to charge all the fees accruing thereon, to the person or persons against whom such judgment shall be obtained.

In what cases county court clerks may charge fees for making up complete records.

SECT. 6. No county court clerk shall charge any fee for making up a complete record unless it be in causes where the title or bounds of lands are determined, or where he is to transmit the transcript of the record of any cause to the office of a superior court upon appeals, writs of error, *supersedeas*, *habeas corpus*, or *certiorari*.

Fee bills to be produced.

SECT. 7. And to the end all persons chargeable with any of the fees aforesaid, may certainly know for what the same are charged, *Be it further enacted*, That none of the fees herein before mentioned, shall be payable by any person whatsoever, until there shall be produced, or ready to be produced unto the person owing or chargeable with the same, a bill or account in writing containing the particulars of such fees, signed by the clerk or officer to whom such fees shall be due, or by whom the same shall be chargeable respectively; in which said bill or account, shall be expressed in words at length, and in the same manner as the fees aforesaid are allowed by this act, every fee for which any money or tobacco is or shall be demanded.

TO THE SHERIFF OR SERJEANT,

(as the case may be,)

Sheriff's fees.

	Dols.	Cts.
For an arrest, bond, and return,	0	63
For returning a *capias*, *non est inventus*,	0	21
For serving a *scire facias*,	0	30

	Dols.	Cts.
For serving any person with an order of court, and making return thereof,	0	30
For pillorying any person,	0	42
For putting into the stocks,	0	21
For ducking any person,	0	42
For putting in prison and releasement,	0	42
For serving a subpœna in chancery,	0	30
For serving a summons upon a petition for debt, *detinue*, *assumpsit*, or *trover*,	0	30
For serving a subpœna for a witness in any cause in court, except summoned in court,	0	21
For summoning an appraiser, auditor, viewer, or witness to any deed, will, or writing, if required to be summoned, but not else,	0	21
For summoning and impannelling a jury, in every cause wherein a jury shall be sworn,	1	5
For coming to and attending the district court with the *venire*, and return of the *venire facias*, the same as is allowed to a *venire* man, (to be paid by the public) and for attending the district with stolen goods where there is no *venire*, the same.		
For summoning the justices of the county and attending a court for the examination of a criminal (to be paid by the public)	4	20
For removing of every criminal from the county jail to a district jail, for every mile,	0	10
For removing a debtor by *habeas corpus* from the county jail to a district jail, for every mile,	0	4
For executing every condemned person, and all fees incident (to be paid as aforesaid)	5	25
For summoning a jury upon any inquisition, survey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear,	1	57
For making a return of a writ of dower, partition, or in the nature of an *ad quod damnum*,	1	5
For every day's attendance upon a jury in the county after they are sworn, or attendance upon a surveyor, when ordered by the court,	1	5
For serving a writ of *habere facias seisinam*, or *habere facias possessionem*,	1	5
For serving an attachment upon the body,	0	63
For serving a writ of *distringas* issuing from a		

	Dols.	Cts
judgment in *detinue* when the specific thing shall be taken,	1	5
For serving a declaration in ejectment, if against one tenant,	0	63
And if against more tenants than one, for serving the declaration on every other tenant,	0	30
For whipping a servant, to be paid by the owner, and repaid by the servant,	0	42
For whipping a free person by order of court (to be paid by such person) the same.		
For whipping a slave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, "An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors,"	0	63
For proceeding to sell on any execution on behalf of the Commonwealth, or of any individual, if the property be actually sold, or the debt paid, the commission of five per centum on the first three hundred dollars or ten thousand pounds of tobacco, and two per centum on all sums above that, and one half of such commission where he shall have proceeded to sale, and the defendant shall have replevied, and no other commission, fee, or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken.		
For serving an attachment, or for making distress upon the goods exceeding ten dollars, if sold, the same fee as for serving an execution, where the goods do not exceed that value, or are not sold,	0	63
For every garnishee summoned on such attachment,	0	21
For executing any writ of *distringas* or attachment on a decree in chancery, the same fee or commissions upon the amount of the value of the goods and chattels recovered, or money mentioned in such decree as is by law allowed for serving any other execution.		
For serving and returning a general or district court writ, summons or order where the same		

	Dols.	Cts.
is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For selling a servant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day,	0	21
For serving a justice's warrant,	0	21
For summoning a witness before a justice,	0	10
For all public services of the sheriff, to wit, attending the courts of claims, impannelling grand juries, publishing writs for electing delegates or senators, and attendance, serving all public orders of court (except against guardians where they shall stand out in contempt, to be charged to such guardian) and all other public and county services (to be levied annually by the justices on the county)	25	0

No fees to be charged to the defendants in presentments, if acquitted.

SECT. 8. And when any person or persons presented by the grand jury, or prosecuted by the overseers of the poor, shall be discharged of such presentment or prosecution, the clerk, attorney for the Commonwealth, and sheriff, shall be entitled to no fees for the same, but it shall be deemed to be included in the public services; but if the party or parties so presented or prosecuted shall be convict, then in such case the clerk shall tax all such fees against such party or parties.

TO THE CORONER.

	Dols.	Cts.	
For taking an inquisition on a dead body, (to be paid out of the estate of the deceased) if the same be sufficient, if not by the county,	2	80	Coroner's fees.
For all other business done by him, the same fees as are allowed the sheriff for the same services.			

TO THE CONSTABLE.

For serving a warrant,	0	21	Constable's fees.
For summoning a witness,	0	10	
For summoning a coroner's jury and witnesses,	1	5	
For putting into the stocks,	0	21	

	Dols.	Cts
For whipping a servant (to be paid by the owner, and repaid by the servant)	0	21
For serving an execution or attachment, returnable before a justice,	0	21
For serving an attachment, returnable to the county court, against the estate of a debtor removing his effects out of the county,	0	63
For whipping a slave (to be paid by the overseer, if the slave is under an overseer, if not, by the master)	0	21
For removing any person suspected to become chargeable to the county, (to be paid by the overseers of the poor) for every mile,	0	4
The same for returning.		

Tables of fees to be set up.

SECT. 9. The clerks of the general court, high court of chancery, court of appeals, and district courts, shall cause to be set up in some public place in their offices, and there constantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the same shall be missing through their neglect; and the clerk of every county and corporation court, shall in like manner set up a fair table of all other fees, herein before mentioned, in the courthouse of his county, to be there constantly kept, on pain of forfeiting twenty dollars, for every court day, the same shall be missing through his neglect; and the surveyor of every county shall also cause to be set up in some public place, in his office, and there constantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties shall be to the person or persons, who shall inform or sue for the same, and shall and may be recovered in any court of record within this Commonwealth, by action of debt or information.

Penalty for over charging.

SECT. 10. If any officer hereafter shall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other business by him done, within the purview of this act, than herein before set down and ascertained, or if any officer whatever shall charge or demand and take any of the fees herein before mentioned, where the business for which such fees are chargeable, shall not have been actually done and performed (to be proved by the fee book of such officer, upon his corporal oath) such officer for every such offence shall forfeit and pay

to the party injured, besides such fee or fees, six dollars for every particular article or fee so unjustly charged or demanded or taken; to be recovered with costs, in any court of record in this Commonwealth, by action of debt or information: *Provided* the same be sued for within twelve months after the offence shall be committed.

Surveyors and clerks of district and county courts to deliver accounts of fees to the sheriffs

SECT. 11. And for the better collecting the said fees, *Be it enacted*, That the surveyor of every county shall, annually, before the twentieth day of January, and the clerk of every district, county and corporation court, respectively, shall, annually, before the first day of March, deliver or cause to be delivered, to the sheriff of every county in this state, and to the serjeant of every corporation, respectively, their accounts of fees due from any person or persons residing therein, which shall be signed by the clerks or surveyors respectively.

Their duty in collecting them.

SECT. 12. And the said sheriffs and serjeants are hereby required and empowered to receive such accounts, and to collect, levy and receive the several sums of money therein charged of the persons chargeable therewith; and if such person or persons, after the said fees shall be demanded, shall refuse or delay to pay the same, till after the tenth day of April, in every year, the sheriff of that county, or serjeant of that corporation wherein such person resides, or of the county in which such fees became due, shall have full power, and are hereby required, to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county or corporation where such person inhabits, or where the same fees became due. And the sheriff of any county, or serjeant of a corporation, for all fees which shall remain due and unpaid after the said tenth day of April in any year, either to themselves or the sheriffs or serjeants of another county or corporation, which shall be put into his hands to collect as aforesaid, is hereby authorised and empowered, to make distress and sale of the goods and chattels of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned; but no action, suit, petition or warrant from a justice, shall be had or maintained for clerks, or surveyors fees, unless the sheriff or serjeant shall return, that the person owing or chargeable with such fees hath not sufficient within his bailiwick whereon to make distress, except where the clerk, or other officer, as aforesaid, shall have lost his fee book

No action to be brought for fees where distress can be made.

by fire or other misfortune, so that he be hindered from putting his fees into the sheriff's hands to collect; and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

When the sheriffs are to account for them.

Sect 13. Every sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of May, in every year, account with the clerks of the respective district, county and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating six per centum for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate, in his county, it shall and may be lawful for the clerks or surveyors, their executors or administrators, upon a motion made in the next succeeding district court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion.

Remedy against them in case of refusal.

Clerks of the court of appeals, of the high court of chancery and general court to deliver accounts of fees to sheriffs.

Sect. 14. The clerks of the court of appeals, high court of chancery, and general court, shall deliver their tickets to the respective sheriffs and serjeants, annually before the first day of May, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods or chattels, for all such tickets as shall remain unpaid after the first day of July, in any year; and if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks at their offices in Richmond, or such town or place as the treasury may be kept at, by the fifteenth day of September, annually, abating ten per centum for collecting, and making an allowance for insolvencies and non-residents, having no estates within their counties, which shall be accounted for on oath; the said clerks or either of them, their executors or administrators, upon motion made in the court of the district, county or corporation, in which the sheriff

Remedy against them for failing to account for them.

or serjeant failing to make payment as aforesaid, may be found, may demand judgment against him for all fees, wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly; provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff, who may fail to add the name of his principal to the receipt for such fees.

Sect. 15 The executors or administrators of any such sheriff, under sheriff, or serjeant, shall be liable to judgment as aforesaid, for the fees received, to be collected by their testator or intestate, and accounted for. Every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

Sheriff's receipt to be deemed his act unless denied upon oath.

Sect. 16. The clerks of the said courts, their executors or administrators, may obtain judgments as aforesaid, for all balances now due to them from any sheriff, under sheriff, or serjeant, on account of fees heretofore put into their hands to be collected.

The judges of the superior courts (except the general court) shall make such allowances from time to time to their respective officers as they shall think reasonable; taking into account the time past for which no allowance hath been made by the Assembly; which allowances when made and audited, shall be paid by the treasurer out of any public money in his hands.

Superior courts to make allowances to their officers.

Sect. 17. All acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed; proviso.

Sect. 18. This act shall commence and be in force from and after the passing thereof.

Commencement of the act.

CHAP. VII.

An act giving further time to the owners of Surveys to return the plats and certificates thereof into the land-office.

(Passed November the 15th, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented that the time allowed by the act of the last session for the owners of surveys to return their plats and certificates into the land-office, will not be sufficient to comply with the purposes thereof, and it is expedient to extend such time: *Be it therefore enacted by the General Assembly*, That the further time of one year and five months, to be computed from the month of July next, shall be allowed to the owners of surveys on the Western waters, and the further time of twelve months from the passing of this act, shall be allowed the owners of surveys on the Eastern waters, for returning all plats and certificates of surveys to the register of the land-office, who shall receive the same. Any law to the contrary notwithstanding.

Surveys on the Western waters when to be returned.

When on the Eastern waters.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. VIII.

An act giving further time to the owners of entries on the Western waters to survey the same.

(Passed October the 12th, 1792.)

Preamble.

WHEREAS the time limited by law for the owners of entries on the Western waters to survey the same, will expire during the present session of Assembly, and it is expedient that a further time should be allowed such owners to comply with the requisitions of the acts of Assembly in such case made: *Be it therefore enacted by the General Assembly*, That the further time of two years shall be allowed to the owners of entries on the Western

Entries on the Western waters, within what time to be surveyed.

waters, to survey the same, in such manner as is directed by law. Any thing to the contrary hereof notwithstanding.

CHAP. IX.

An act declaring what remedy the Commonwealth shall have in certain cases.

(Passed December the 25th, 1792.)

Actions on the case may be brought against public debtors for recovery of money, &c. due to the Commonwealth.

SECT. 1. *BE it enacted*, That whensoever any person or persons heretofore have, or hereafter may receive, any sum or sums of money or tobacco, or any kind of public securities whatsoever, which of right do or shall appertain to this Commonwealth, and such person or persons shall refuse or neglect to pay such money, tobacco, or public securities, or any part thereof, to such officer of this Commonwealth, to whom by law the same ought to be paid; then and in that case it shall and may be lawful for the governor, with the advice of the council of state, to institute an action upon the case against such person or persons, their executors or administrators, for money, tobacco, or public securities (as the case may be) had and received to the use of the Commonwealth; which action shall be instituted in the name of the governor for the time being, and his successors, for the use of the Commonwealth, and shall not abate by the death, resignation, or removal from office of the governor, in whose name it shall be brought.

In the name of the governor.

No official bond to be pleaded in abatement or bar thereof.

SECT. 2. Where such suit shall be brought against any public officer, such officer shall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. X.

An act for ascertaining the Salaries to the officers of civil government.

(Passed November the 22d, 1792.)

Salaries payable quarterly to the officers of government.

SECT. 1. *BE it enacted*, That the several officers herein-after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The governor or chief magistrate, the sum of two thousand six hundred and sixty-seven dollars. The members of the privy council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The judges of the court of appeals, the judge of the high court of chancery, and the judges of the general court, each, the sum of one thousand dollars. The attorney-general, the sum of six hundred and sixty-seven dollars per annum, and to each of his deputies in the district courts, seventy-five dollars per annum. The auditor of public accounts, the sum of one thousand dollars per annum. The speaker of the senate, the sum of three dollars and thirty-four cents per day, during each session of Assembly, including his daily pay. The speaker of the house of delegates, the sum of six dollars and sixty-seven cents per day, in like manner. The clerk of the general court, for his ex officio services, the sum of one hundred dollars per annum The register of the land-office and his clerks, the sum of one thousand three hundred and thirty-three dollars per annum. The treasurer, the sum of sixteen hundred and sixty-seven dollars per annum. The first clerk of the council, treasury, and auditor, the sum of five hundred dollars per annum each, and each of the other clerks of the council, treasury, and auditor, the sum of three hundred and thirty-four dollars per annum. And the keeper of the public jail, the sum of eighty-four dollars per annum. All those several sums shall be paid in specie; and the auditor is hereby authorised to audit the same, and issue his warrants upon the treasury accordingly.

Repealing clause.

SECT. 2. All and every act and acts, clauses and parts of acts heretofore made, containing any thing within the purview of this act, shall be, and the same are hereby re-

pealed. *Provided always*, that nothing in this act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this act. Proviso.

SECT. 3. This act shall commence in force from and after the first day of January next.

CHAP. XI.

An act for reducing into one act, the several acts concerning the Court of Appeals and special Court of Appeals.

(Passed October the 26th, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That the Court of Appeals shall consist of five judges, to be chosen and commissioned in the manner directed by the constitution of this Commonwealth. Any three of the said judges shall constitute a court. The said court shall be holden at the capitol, in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess, by the governor, with the advice of the council of state, on any such emergency, as will make the adjournment lawful. The said court shall be holden twice in every year, namely, on the tenth day of April, and the tenth day of October, or when that shall happen to be Sunday, on the succeeding day, and shall sit each time, until the business depending before them shall be dispatched. Every judge before he exercises his office, shall in open court give assurance of fidelity to the Commonwealth, and take this oath—"You shall "swear that you will well and truly serve this Com- "monwealth in the office of a judge of the court of ap- "peals, and that you will do equal right to all manner of "people, great and small, high and low, rich and poor, "without respect of persons. You shall not take by "yourself or by any other, any gift, fee, or reward of "gold, silver, or any other thing, directly or indirectly, "of any person or persons, great or small, for any mat- "ter done or to be done, by virtue of your office, except "such fees or salary, as shall be by law appointed. You "shall not maintain by yourself or by any other, privily

Court of appeals to consist of five judges.

Any three to constitute a court.

Where to be holden.

Terms.

Oaths to be taken by the judges.

"or openly, any plea or quarrel depending in the courts "of this Commonwealth. You shall not delay any per- "son of right for the letters or request of any person, nor "for any other cause; and if any letter or request come "to you contrary to the law, you shall nothing do for "such letter or request, but you shall proceed to do the "law, any such letter or request notwithstanding. And "finally in all things belonging to your said office, during "your continuance therein, you shall faithfully, justly, "and truly, according to the best of your skill and judg- "ment, do equal and impartial justice, without fraud, "favor or affection. So help you GOD."

Jurisdiction of the court.

SECT. 2. The said court shall have jurisdiction not only in the cases provided for by the constitution of this Commonwealth, and in suits originating there, or adjourned thither for trial by virtue of any statute, which trial shall be by juries according to the course of law, but also in such as are now pending therein, or shall be brought before them by appeals, writs of *error* or *supersedeas*, to reverse decrees of the high court of chancery, or judgments of the general court, or district courts of this Commonwealth, after those decisions shall be final there, if the matter in controversy be equal in value, exclusive of costs, to one hundred dollars, if the judgment sought to be reversed, shall be rendered in the district courts, or one hundred and fifty dollars, if in the general court or high court of chancery, to be a freehold or franchise; and in all other cases therein depending at the commencement of this act.

Regulations respecting the adjournment of the court when the judges do not attend.

SECT. 3. If a sufficient number of judges to constitute a court shall not attend on the first day of any term of the court of appeals, it shall be lawful for any one judge thereof to adjourn the court from day to day, for four days successively, or until a sufficient number shall attend, and if that shall not happen before four of the clock on the fourth day, then the court shall stand adjourned, and all suits depending therein continued to the next court. And if during any session after a court shall have been constituted, three judges shall not attend to make a court, there shall be no discontinuance of the term, but the court shall stand adjourned from day to day, till a sufficient number shall attend; provided that shall happen in four days, and if it does not, then the term and suits shall stand adjourned to the next court, as before directed.

SECT. 4. Although one or more of the judges of the court of appeals be interested in the event of any suit, matter or thing depending therein, the same shall be finally decided by the other judges, if there be a number of judges not so interested sufficient to constitute a court.

The court to determine causes in which one or more of the judges may be interested if there remains a sufficient number to make a court.

SECT. 5. If on an appeal from the high court of chancery, or on any question concerning any decree or order made therein, or process to be directed thereto, a majority of, or all the judges of the court of appeals be interested, then in the former case the remaining judges of the court of appeals not so interested, and as many of the judges of the general court, as will make the number at least five; and in the latter case so many of the judges of the general court not so interested, as will make the number five at least, shall constitute a special court for the trial of such appeal or question. If on an appeal, writ of *error*, or *supersedeas* to or from any judgment or order made in the general court, or any question concerning the same, or any process to be directed thereto, a majority or all of the judges of the court of appeals be interested therein, then in the former case the remaining judges of the court of appeals, not being so interested together with the judge of the high court of chancery, and as many of the judges of the general court, not being so interested, as will make the number five at least, shall constitute a like court for the purpose aforesaid. If on an appeal, writ of *error*, or *supersedeas*, to or from any judgment or order made in a district court, or any question concerning the same, or concerning any process to be directed thereto, a majority or all the judges of the court of appeals be interested, then in the former case, the remaining judges of the court of appeals not being interested, the judge of the high court of chancery not being so interested, and as many of the judges of the general court, who are not so interested, and did not render the judgment or direct the order, as will make the number five at least, shall constitute a like court for the purpose aforesaid; and in the latter case no judge of the court of appeals shall sit; but any five of the judges last mentioned, and not disqualified as aforesaid, shall constitute a court. *Provided always*, that in case of the sickness or other disability of the judge of the high court of chancery to attend any special court of appeals, such court may, in any case, be constituted by other judges. *And provided also*, that when any special court shall be

Special courts of appeals to be held for the trial of suits in which a majority of the judges of the court of appeals are interested.

appointed for the trial of any cause depending in the court of appeals, because a majority of the judges of that court are interested or otherwise disqualified to sit therein, in case of the sickness or disability of the remaining judge or judges of the said court not so disqualified, or either of them, the remaining judges appointed by law to hold such court, or any five of them attending may proceed to a hearing and decision of the cause, in the same manner as if all the judges of the courts of appeals, not so disqualified, had been present.

When and where.

SECT. 6. Whensoever a majority or all the judges of the court of appeals shall be interested in any of the cases abovementioned, the same shall be entered of record in the said court, and the clerk thereof shall thereupon issue a summons to the judge of the high court of chancery, and judges of the general court, requiring them, if not disqualified as aforesaid, to attend at the capitol, in the city of Richmond, or in case of adjournment of the court of appeals, to any other place, at such other place on the twentieth day of June or November, then next following, and stating the names of the parties, and the court whose decision is to be examined. A court constituted in any of the cases above described, shall hear, determine, and finally decide all suits, process, matters and things submitted to their cognizance and jurisdiction aforesaid.

To be attended by the clerk,

SECT. 7. The clerk of the court of appeals for the time being, shall attend all such special courts with the records in the cases to such special courts committed, and enter the proceedings of all such special courts in the order book of the court of appeals, and the same shall be signed by the presiding judge of such special court, and be certified to the inferior court; and the judgment or decree, sentence or order of such court shall be carried into execution in the same manner as if the same had been determined in the court of appeals. Such special courts shall be attended by the like officers with the court of appeals, who shall receive the like compensation as they now do in the said court; and such special courts may adjourn and do all and every act as a court during their session, which the courts of appeals may by law do.

and other officers of the court of appeals, and to have the same power of adjournment, &c.

Causes in the special courts when to be resumed by the courts of appeals.

SECT. 8. *Provided always*, That where any cause shall be pending in any such special court, and the same shall not be determined before there shall be a sufficient number of the judges of the court of appeals, qualified to

make a court for deciding the same, such cause shall be resumed by the court of appeals, and be determined there, as if such cause had never been committed to a special court.

Oaths to be administered to the judges attending such special courts.

SECT. 9 Each judge attending in consequence of such summons, shall in open court take an oath to do his duty as a judge of appeals, in the case or cases on which he is summoned, impartially and truly, without favor or affection; which oath shall be administered by the eldest sitting judge, and shall then be administered to him, if he shall not before have qualified as a judge of the court of appeals by one other of the judges.

Allowances to them for attendance and travelling expences.

SECT. 10. Each judge attending in consequence of such summons, and not disqualified as aforesaid, shall be allowed for his attendance three dollars and thirty-three cents per day, and for travelling to and from the place of session, two dollars for every twenty miles. And the judges of the court of appeals, attending such special court, and not disqualified to sit therein, shall be paid the same allowance.

Court of appeals to appoint their officers; to be attended by the sheriff of the county in which the court is holden.

SECT. 11. The court of appeals shall appoint a clerk, tipstaff, and cryer, the first removable for misbehaviour, in the manner directed by the constitution, the two others at pleasure; and shall be attended by the sheriff of the county in which they sit as their officer.

Judges may appoint a clerk in vacation.

SECT. 12. If a vacancy shall happen in the office of clerk out of the terms of the said court, it shall be lawful for a majority of the judges, by commission under their hands and seals, to appoint a clerk to fill such vacancy.

Duty of the clerk. Rule in docketing causes.

SECT. 13. The clerk of the said court shall carefully preserve the transcripts of records certified to his court with the bonds for prosecution, and all papers relative to them, and other suits depending therein, docketing them in the order he shall receive them, that they may be heard in the same course, unless the court for good cause to them shown, direct any to be heard out of its turn, and shall faithfully record their proceedings and decisions, and certify the same to the proper courts.

Jurisdiction of the court with respect to appeals, writs of error, supersedeas, &c.

SECT. 14. Appeals, writs of error, and *supersedeas*, may be granted, heard and determined by the court of appeals, to and from any final decree or judgment of the high court of chancery, general court and district courts, in the same manner, and on the same principles as appeals, writs of error and *supersedeas* are to be granted,

heard, and determined by the high court of chancery, and district courts, to and from any final decree or judgment of a county, city, or borough court, and the party shall proceed in like manner, and the damages in case of affirmance shall be the same in the court of appeals, as in those courts respectively; and the clerk of the said court shall issue the like process for summoning the adverse party, removing the records, suspending the execution, and for every other requisite purpose, making those alterations in the form, which are necessary to adapt it to the case, as are prescribed in the like cases in the high court of chancery, and the district courts, respectively.

Writs of supersedeas may be granted in vacation.

SECT. 15. Writs of *supersedeas* may be granted by any judge of the court of appeals during vacation, the party desiring to obtain the same, proceeding in like manner as in the case of a *supersedeas*, to be granted by a judge of the district courts, to a judgment of the county court.

By whom bond and security may be given in appeals, &c.

SECT. 16. Where one person or several, obtain an appeal, writ of error, or *supersedeas*, bond and security given by any party, or by any responsible person, shall be valid and sufficient.

When records in appeals, &c. are to be filed.

SECT. 17. Whensoever any appeal, writ of error, or *supersedeas*, shall be granted, and a transcript of the record be not sent to the court on or before the second term of the court of appeals, after the same shall have been granted, such appeal, writ of error, or *supersedeas*, shall be dismissed, unless good cause be shewn to the contrary.

After dismission of appeals, &c. none others to be allowed.

SECT. 18. After the dismission of an appeal, writ of error, or *supersedeas* in the court of appeals, no appeal, writ of error, nor *supersedeas* shall be allowed.

Cases to be stated and printed for the judges.

SECT. 19. A clear and concise state of the case of each party in an appeal, writ of error, or *supersedeas*, with the points intended to be insisted on, signed by his counsel and printed, the expence whereof shall be taxed in the bill of costs, shall be delivered to every judge time enough before the hearing for his consideration; but

Judgments of the court, how to be rendered.

the court, if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the court whose error is sought to be corrected ought to have given, (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to

the court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly.

No question to be removed by adjournment to the court of appeals.

SECT. 20. It shall not be lawful for the high court of chancery or general court, to remove before the court of appeals, by adjournment, any question, matter or thing whatsoever.

The judges to direct the forms of writs.

SECT. 21. The judges of the court of appeals shall direct the form of writs from time to time in such manner as shall seem advisable.

Former acts repealed.

SECT. 22. All acts and parts of acts, within the purview of this act, shall be, and are hereby repealed.

SECT. 23. This act shall commence and be in force from and after the passing thereof.

CHAP. XII.

An act reducing into one, the several acts concerning the High Court of Chancery.

(Passed November the 29th, 1792.)

High court of chancery to consist of one judge; how chosen and commissioned.

SECT. 1. *BE it enacted by the General Assembly*, That the high court of chancery shall consist of one judge, to be chosen and commissioned in the manner directed by the constitution of this Commonwealth.

Where to be held.

SECT. 2. The said court shall be holden at the Capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess by the governor, with the advice of the council of state, on any such emergency, as will make the adjournment lawful.

Terms

SECT. 3. The said court shall be holden three times in every year, namely, on the first day of March, on the twelfth day of May, and on the tenth day of September; but if either of those days happen on a Sunday, on the day following. The session in March shall continue eighteen, and the sessions in May and September twenty-four juridical days successively, unless the business depending before the said court shall be sooner dispatched.

The court to

SECT. 4. If the judge shall not attend on the first day

be adjourned from day to day for six days when the judge does not attend.

of the term, such court shall stand adjourned from day to day until a court be made, if that shall happen before four o'clock in the afternoon of the sixth day.

Causes to be continued to the next term when the court does not sit, or does not finish the business.

SECT. 5. If a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for its decision, all suits, matters and things depending in court and undecided, shall stand continued to the next succeeding term. If from any cause the court shall not sit on any day of the term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed the court shall proceed to business until the end of the term, if the business depending before it be not sooner dispatched.

Oaths to be taken by the judge.

SECT. 6. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this Commonwealth, and take the following oath:

"You shall swear that well and truly you will serve "this Commonwealth in the office of judge of the high "court of chancery, and that you will do equal right to "all manner of people, great and small, high and low, "rich and poor, according to equity and good conscience, "and the laws and usages of Virginia, without respect of "persons. You shall not take by yourself, or by any "other, any gift, fee, or reward, of gold, silver, or any "other thing, directly or indirectly, of any person or per-"sons, great or small, for any matter done or to be done "by virtue of your office, except such fees or salary, as "shall be by law appointed. You shall not maintain by "yourself, or by any other, privily or openly, any plea or "quarrel depending in the courts of this Commonwealth. "You shall not delay any person of right for the letters "or request of any person, nor for any other cause; and "if any letter or request come to you contrary to law, "you shall nothing do for such letter or request, but you "shall proceed to do the law, any such letter or request "notwithstanding; and finally, in all things belonging to "your said office, during your continuance therein, you "shall faithfully, justly, and truly, according to the best "of your skill and judgment, do equal and impartial jus-"tice, without fraud, favor, affection or partiality. So "help you God." Such oath shall be taken before the executive, and a certificate recorded in the said court.

Penalty for

SECT. 7. If any person shall presume to execute the

said office, without having taken the said oaths, he shall forfeit and pay the sum of fifteen hundred dollars for his said offence. acting without taking the oaths.

SECT. 8. The said court shall have general jurisdiction over all persons and in all causes in chancery, now pending therein, or which may hereafter be brought before it, whether by original process, appeal from any inferior court, *certiorari*, or other legal means, and also in such other cases, as by any statute, are, or shall be made cognizable therein: But no person shall commence an original suit in any matter of less value than thirty-three dollars and thirty-three cents, except it be against the justices of any county or other inferior court, on pain of having the same dismissed with costs. Jurisdiction of the court.

SECT. 9. The said court shall be considered as always open, so as to grant injunctions, writs of *ne exeat certiorari*, and other process heretofore usually granted in vacation. In what cases to be considered as always open.

SECT. 10. The said court shall have power to appoint a clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the legislature may appoint, as also a serjeant at arms. And in case of a vacancy in the recess of the said court, the said judge may make the like appointments under his hand and seal, during a vacation; and such succeeding clerk or serjeant, having, in any court of record, taken the oaths required by law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in term time. Officers to be appointed.

SECT. 11. It shall be lawful for the high court of chancery to send any matter of law to the general court, for their opinion to be certified thereupon. The court may require the opinion of the general court in matters of law.

SECT. 12. Although any of the defendants, whether debtors or others, in any suit instituted in the said court, should be absent from the Commonwealth, the court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the Commonwealth. May proceed against other absent defendants as against absent debtors.

SECT. 13. The said court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that court, or in any other court whatsoever, as justice or convenience to the parties may require, and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the courts of chancery in Virginia. May direct issues to be tried.

Mode of trial in all other cases.

Suits properly cognizable in the general court may be tried in the court of chancery, when a majority of the judges of the former are interested.

SECT. 14. If a majority of the judges of the general court be interested in any suit, which in the case of any other person would have been proper for the jurisdiction of such court, it may be lawful to institute such suit in the high court of chancery, where proceedings shall be had conformably to the rules of the general court, and process shall be returnable as the high court of chancery shall direct; and thereafter an appeal may be entered to the court of appeals.

SECT. 15. It shall be lawful for the said court to arrange the business thereof, in the most convenient and equitable manner.

When appeals may be made from decrees in county courts where not entered when the decrees were pronounced.

SECT. 16. Any party thinking himself aggrieved by a decree of the court of a county, city, or borough, in chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the clerk of the high court of chancery, a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some counsel attending the high court of chancery, and also lodging with the petition a bond executed by the appellant or his agent, and a surety or sureties with the like condition as is annexed to other appeal bonds, and affidavits, or solemn affirmations, verifying the sufficiency of the sureties; and the clerk shall thereupon issue a summons against the appellee, requiring him to appear and answer the said petition and appeal, and shall also issue a *supersedeas*, if necessary, to enjoin from proceeding in execution of the decree; and the court shall and may hear and determine the appeal in the same manner as if the appeal had been entered at the time the decree was pronounced.

By whom bond and security may be given in appeals, &c.

SECT. 17. *Provided always*, That whenever an appeal is prayed for from any inferior court to the said high court of chancery, or bond is given for the removal of any suit in chancery, in any manner whatsoever, it shall be sufficient in either case, if the said bond or bonds shall be executed by good and sufficient securities, although the appellant or party shall not execute the said bond or bonds.

How appeals may be obtained from decrees in county courts

SECT. 18. The said court, or the judge thereof in vacation, shall have power, for good cause shewn, to allow a petition of appeal, and if necessary, order a *supersedeas* to stop the execution of any decree pronounced by an

inferior court, at any time within three years after pronouncing the same; the party praying such appeal and *supersedeas*, complying with the terms which the said court or judge shall annex to such order. where not entered when the decrees were pronounced.

SECT. 19. All original process to bring any person to answer any bill, petition or information in the said court, and all subsequent process thereupon, shall be issued and signed by the clerk in the name of the Commonwealth, and bear teste by the judge of the said court; shall be returnable to the first or seventeenth days of the term, which shall be next after the suing out such process, and may be executed at any time before the return day thereof. And if any process shall be executed so late that the sheriff hath not reasonable time to return the same before the day of appearance, and thereupon any subsequent process shall be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, on which there shall be the same proceedings as if it had been returned in due time. Process, how to be issued. Return days.

SECT. 20. All appeals from decrees in chancery, obtained in any inferior court, shall be made to the third day of the next term. Appeals to be made to the third day of the next term.

SECT. 21 In all suits in the said court, the following rules and methods shall be observed: The complainant shall file his bill within one calendar month after the day of appearance, or may be ruled on the requisition of the defendant to file such bill, and if he fails to do so within one calendar month after such rule, the suit may be dismissed with costs; and if he shall fail to file the same within three months after the subpœna shall be returned executed, the suit shall stand *ipso facto* dismissed with costs. Rules to be observed in the pleadings

SECT. 22. And upon the complainant's dismissing his bill, or the defendant's dismissing the same for want of prosecution, the complainant shall pay costs, to be taxed by the clerk of the court; for which costs, an attachment, or other process of contempt, or an execution may issue, at the election of the defendant, returnable on any return day.

SECT. 23. The complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a small matter afterwards, without paying costs; but if he amend in a material point after such copy obtained, he shall pay the defendant all costs occasioned thereby.

Sect. 24. If the defendant shall not appear on the day of appearance, (which in all cases shall be the second day after the term to which the subpœna is returnable) an attachment shall be awarded and issued against him, returnable to the next term, which being returned executed, if the defendant doth not appear, or being brought into court upon any such process, shall obstinately refuse to answer, the complainant's bill shall be taken as confessed, and the matter thereof decreed accordingly.

Sect. 25. The defendant within three calendar months after his appearance and bill filed, shall put in his answer to be filed with the clerk in the office, at the expiration of which time, if no answer be filed, the clerk, upon request, shall issue an attachment, returnable to the next court; and if no answer be filed upon the return of such attachment executed, or a copy thereof left at the defendant's usual place of abode, or last place of residence, the complainant's bill shall be taken as confessed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and such subsequent process of contempt may issue as was heretofore issuable out of the general court sitting in chancery in like cases.

Sect. 26. No process of contempt shall issue unless the subpœna be returned served by a sworn officer, or affidavit be made of the service thereof.

Sect. 27. Every defendant may swear to his answer before any judge of this or of the general court, or any justice of the peace.

Sect. 28. If the defendant does not file his answer within three months after the plaintiff shall have filed his bill, having also been served with the subpœna at least three months before the said time for filing his answer, the plaintiff may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the court for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

Sect. 29. After answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the high court of chancery, or any other court,

ever thereafter delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*.

SECT. 30. When a cross bill shall be exhibited, the defendant or defendants to the first bill shall answer thereto, before the defendant or defendants to the cross bill shall be compelled to answer such cross bill.

SECT. 31. The complainant shall reply, or file exceptions within two calendar months after the answer shall have been put in. If he fails so to do, the defendant may give a rule to reply with the clerk of the court, which being expired, and no replications or exceptions filed, the suit shall be dismissed with costs; but the court may order the same to be retained if they see cause, on payment of costs.

SECT. 32. If the complainant's attorney shall except against any answer as insufficient, he may file his exceptions, and give a rule with the clerk to make a better answer within two calendar months, and if within that time the defendant shall put in a sufficient answer, the same shall be received without costs; but if any defendant insists on the sufficiency of his answer, or neglect or refuse to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions to be argued the next term in court, and after the expiration of such rule, or any second insufficient answer put in, no farther or other answer shall be received but upon payment of costs.

SECT. 33. If upon argument the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, such costs as shall be allowed by the court.

SECT. 34. Upon a second answer adjudged insufficient, costs shall be doubled.

SECT. 35. If a defendant shall put in a third insufficient answer, which shall be so adjudged, he or she may be examined upon interrogatories, and committed until he or she shall answer them, and pay costs.

SECT. 36. If the defendant, after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant may go on with the subsequent process of contempt as if no answer had been put in.

SECT. 37. Rules to plead, answer, reply, rejoin, or

other proceedings not before particularly mentioned, when necessary, shall be given from month to month with the clerk in his office, and shall be entered in a rule book for the information of all parties, attornies, or solicitors, concerned therein.

SECT. 38. No defendant shall be admitted to put in a rejoinder, unless it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to set his cause down for hearing.

SECT. 39. After an attachment with proclamation returned, no plea or demurrer shall be received, unless by an order of court, upon motion.

SECT. 40. If the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in chancery, where trial hath been by jury: And if thereupon the plea should be found false, the complainant shall have the same advantages as if it had been so found by verdict at common law.

SECT. 41. If a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill.

SECT. 42. If the complainant shall not proceed to reply to, or set for hearing, as before mentioned, any plea or demurrer before the second court after filing the same, the bill may be dismissed of course with costs.

SECT. 43. Upon a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two calendar months after, but if adjudged good, the defendant shall have his costs.

SECT. 44. If any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed.

When plaintiffs may obtain commissions de bene esse.

SECT. 45. After any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged, and infirm, or going out of the country, the clerk may issue a commission for taking the examination of such witnesses *de bene esse*; the party praying such commission, giving reasonable notice

to the adverse party, of the time and place of taking the depositions.

After a general commission six months allowed for taking depositions.

SECT. 46. Whenever a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions, and either party at the expiration of the said six months may set the same for hearing, nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties by special order of court, or out of the state.

When causes are to be set for hearing.

Proceedings in the office subject to regulation by the court.

SECT. 47. The court in their sittings may regulate all proceedings in the office, and for good cause shewn, may set aside any dismissions, and reinstate the suits on such terms as shall appear equitable.

Proceedings in court to be read before signing.

SECT. 48. For prevention of errors in entering up the decrees and orders of the court, the proceedings of every day shall be drawn up at large by the clerk, and read in open court the next day, except those of the last day of each term, which shall be drawn up, read, and corrected the same day, and any necessary corrections made therein, when they shall be signed by the judge of the court, and preserved among the records.

Compleat records to be made in suits determined.

SECT. 49. And for the more entire and better preservation of the records of the court, when any cause shall be finally determined, the clerk shall enter all the pleadings therein, and other matters relating thereto together, in a book to be kept for that purpose, so that an entire and perfect record may be made thereof, and those wherein the title to lands is determined shall be entered in separate books to be kept for that purpose only.

Writs of certiorari, ne exeat and injunction how granted.

SECT. 50. The court in session, or the judge in vacation, may grant writs of *certiorari*, for removing before the said court the proceedings in any suit in chancery, depending in any county or other inferior court, writs of *ne exeat* to prevent the departure of any defendant out of the country, until security be given for performing the decree, and writs of injunction to stay execution of judgments obtained in any of the courts of common law, subject nevertheless to the rules following:

Rules as to writs of certiorari.

SECT. 51. No writ of *certiorari* shall be granted to remove any suit, unless the matter in dispute be of value sufficient to entitle the high court of chancery to original jurisdiction therein, nor unless ten days notice of the motion be given in writing to the adverse party, nor in va-

cation but upon such petition and affidavit as are by law directed for writs of *certiorari* to be granted by the district court; and in all cases, bond and security shall be given for performing the decree of the said high court of chancery, before the issuing of the *certiorari*.

As to writs of ne exeat, and how they may be discharged.

SECT. 52. Writs of *ne exeat* shall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the court in term time, or the judge in vacation, such writ may be granted or refused as shall seem just; and if granted, he shall direct to be endorsed thereon in what penalty bond and security shall be required of the defendant.

As to injunctions.

SECT. 53. If the defendant shall by answer satisfy the court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged.

SECT. 54. No injunction shall be granted to stay proproceedings in any suit at law, unless the matter in dispute be of value sufficient to admit of original jurisdiction in the said high court of chancery, nor unless the court in term time, or the judge thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and shall order the same.

SECT 55. Where any injunction shall be granted, the clerk shall endorse on the subpœna that the effect thereof is to be suspended, until the party obtaining the same shall give bond with sufficient security in the office of the court in which the judgment to be enjoined shall have been obtained.

SECT. 56. The party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the clerk's office of that court in which the proceedings at law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the clerk shall endorse on the subpœna that the bond is filed.

Court may appoint commissioners in cases which require reports and make them an allowance for their trouble.

SECT. 57. It shall be lawful for the high court of chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs.

SECT. 58. If any defendant or defendants shall be in

custody upon any process of contempt, and be brought into court by virtue of a writ of *habeas corpus*, or other process, and shall refuse or neglect to enter his or her appearance according of the rules of the court, or appoint an attorney of the court to do the same for him, the court in such case may direct an attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance, or to appoint an attorney as aforesaid, or shall be forth coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof, and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor or administrator.

Method of proceeding against defendants in custody who refuse to enter their appearance.

Sect. 59. *Whereas* many persons against whom decrees may have been rendered in the high court of chancery, may desire to appeal from such decrees, but have been hindered from doing so, at the term in which the said decrees were pronounced: *Be it enacted*, That if upon a petition to any judge of the court of appeals, or the judge of the high court of chancery in vacation next after the term, when such decree shall have been rendered, for relief in such a case, it shall appear to his satisfaction, that the failure to appeal from his decree, at the time, or during the term when it was pronounced, did not arise from any culpable neglect in the petitioner, or that upon the whole circumstances of the case, the petitioner ought to have the benefit of an appeal, it shall be lawful for the said judge to grant the said appeal, which grant of appeal, shall be as effectual, both for staying proceeding on the said decree, and for bringing the same before the court of appeals for their decision, as if the same had been duly made during the term when the said decree was pronounced.

How appeals may be obtained from decrees in the high court of chancery where not entered when the decrees were pronounced.

Sect. 60. *And whereas* upon bills of review in the said high court of chancery, the judge of the said court may think it reasonable, during the pendency of such

Proceedings on decrees may be stayed during the

pendency of bills of review.

bills, or until cause shall be shewn to the contrary, to stay proceedings on the decree, which such bills are intended to review: *Be it enacted*, That in such case, the judge of the said high court of chancery, either in term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made or until the further order of the said judge; or the said judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, that the said judge of the high court of chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

Former acts repealed.

SECT. 61. All acts and parts of acts within the purview of this act, shall be, and are hereby repealed.

SECT. 62. This act shall commence and be in force from and after the passing thereof.

CHAP. XIII.

An act reducing into one, the several acts and parts of acts concerning the General Court, and prescribing the manner of proceeding therein in certain cases.

(Passed December the 13th, 1792.)

General court to consist of ten judges: how chosen and commissioned.

SECT. 1. *BE it enacted by the General Assembly*, That the general court of this Commonwealth shall consist of ten judges, to be chosen and commissioned in the manner directed by the constitution of the Commonwealth. Any three of the said judges shall constitute a court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said court shall be holden at the Capitol in the city of Richmond, or at such other place as shall be appointed by the General Assembly, or in their recess, by the governor,

Where to be held.

with the advice of the council of state, on any such emergency as will make the adjournment lawful. The said court shall be holden twice in every year, namely, on the ninth day of June and the ninth day of November, or if either of those days shall be Sunday, then on the succeeding day, and shall continue their session for sixteen juridical days at each term, unless the business before them be sooner dispatched. If a sufficient number of judges should not attend on the first day of any term, or on any other day during the term, any one of the said judges may adjourn the court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such court, shall stand continued over to the next succeeding term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelityto the Commonwealth, and take the following oath of office, to wit: "You shall swear that well and truly you will "serve this Commonwealth in the office of a judge of the "general court, and that you will do equal right to all "manner of people, great and small, high and low, rich "and poor, according to law, without respect of persons. "You shall not take by yourself, or by any other, privily "or openly, any gift, fee, or reward, of gold, silver, or "any other thing, directly, or indirectly, of any person "or persons, great or small, for any matter done or to be "done, by virtue of your office, except such fees or salary "as shall be by law appointed. You shall not maintain "by yourself, or other, privily or openly, any plea or "quarrel depending in the courts of this commonwealth. "You shall not deny or delay any person of common right, "for the letters or request of any person, nor for any "other cause; and if any letter or request come to you "contrary to the law, you shall nothing do for such letter "or request, but you shall proceed to do the law, any such "letter or request notwithstanding; and finally, in all "things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, "according to the best of your skill and judgment, do "equal and impartial justice, without fraud, favor, "affection or partiality. So help you GOD." Which oaths may be taken before the executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable such judge to do all the duties of his office, and such certificate shall be recorded

Terms, 9th of June and Nov. and sit 16 juri. days.

Regulations respecting adjournment.

Oaths to be taken by the judges.

By whom to be administered.

in the general court, or district court, where such judge shall first sit. If any person shall presume to sit in court or execute the said office, without having taken the said oaths, he shall for such offence forfeit the sum of fifteen hundred dollars.

Penalty for acting without taking the oaths.

Officers to be appointed by the court.

SECT. 2. The said court shall appoint a clerk, one or more assistant clerks, if necessary, a crier and tipstaff, the first removable for misbehaviour in the manner directed by the constitution, the others at pleasure; who shall be entitled to such fees or salaries as shall be established by law. And the sheriff, or so many of the under sheriffs as shall be thought necessary, of the county where such court may be held, shall attend the said court during their sessions.

Sheriff of the county in which the court sits to attend.

Jurisdiction of the court.

SECT. 3. The jurisdiction of the said court shall be general over all causes, matters and things at common law, as well criminal as civil, except in such cases, as by the constitution of the United States of America, or of this Commonwealth, or any statute made by the Congress of the said United States, or the General Assembly of this Commonwealth, are or shall be vested in any other tribunal; in any of which cases the jurisdiction of the general court shall cease, unless concurrent jurisdiction be thereto expressly given by this act, or some other statute. The said court shall have jurisdiction in all causes, matters and things therein depending at the commencement of this act; and no discontinuance shall take place in any case whatsoever, by reason of the passing of this act. The said court shall continue to have jurisdiction, in all cases, suits and motions against public debtors and public defaulters of every denomination, for and in behalf of the Commonwealth. If the judge of the high court of chancery shall be interested in any matter, which in the case of any other person would have been proper for the jurisdiction of such court, it shall be lawful to institute such suit in the general court, where proceedings shall be had conformably to the principles and usages of equity; and process shall be returnable as the general court shall direct; and thereafter an appeal may be had to the court of appeals. Writs of *scire facias* may be issued from, and be tried in the general court upon all judgments which have been or shall be obtained therein; the said court may fine sheriffs, deputy sheriffs, or coroners, for not returning executions issued, or to be issued from the said court, and enter up judgments against the said officers,

for all money or tobacco, for which they have made or shall make themselves respectively liable by law upon such executions; may award execution upon replevy bonds, or bonds to have goods forth-coming at the day of sale; may quash executions if illegally or improvidently issued or executed, and award new ones; and finally, may exercise full jurisdiction in every other legal mode necessary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the said court; any law to the contrary, or seeming to the contrary, notwithstanding. The said court shall have power to hear and determine upon all errors in matters of fact, that shall or may have happened in the proceedings depending in the said court.

May award writs of mandamus to the district courts.

SECT. 4. The said courts shall have power to issue writs of *mandamus* to the district courts.

Further description of jurisdiction.

SECT. 5. The said court shall likewise have jurisdiction to hear and determine motions against the delinquent subscribers of the Patowmac and James river companies, and for securities against their principals; and for sheriffs against their deputies and securities, or either of them.

May for good cause direct any suit in a district court to be tried at their own bar or in another district.

SECT. 6. For good cause shewn, the general court may direct the trial of any cause, depending before a district court, to be had by a jury at their own bar, for which purpose the sheriff, or any other officer attending them, shall summon a jury qualified as the law now directs in cases of juries in the general court; or may cause a suit depending in one district to be tried in another.

Suits in which judges are parties, to be removed to the general court.

SECT. 7. Unless good cause be shewn to the contrary, the general court shall direct a suit depending before a district court, in which a judge of the general court is a party, to be removed to be tried at the bar of the general court.

Jurisdiction relative to wills, administrations, &c.

SECT. 8. The general court shall have jurisdiction and authority to hear and determine all causes, matters, suits, and controversies testamentary, which shall be brought before the same, and to examine and take the proofs of wills, and to hear and determine the right of administration of the estates of persons dying intestate, and to do all other things concerning wills and administrations, according to law.

Deeds partly proved, may be either fully proved thereto or delivered to the parties

SECT. 9. The said court shall have power and authority to receive probat of all deeds whatsoever, concerning lands in any part of this Commonwealth, to issue commissions for the privy examination of any *feme covert* and to admit the same to record, as also to receive proof of

to be fully proved in the district or county courts.

any other deed or instrument of writing whatsoever, and to admit the same to record therein, if they shall be of opinion that the same is proper to be done. A deed for lands now or at any time hereafter partly proved in the general court, may either be fully proved there, or shall be delivered by the clerk thereof to any person authorised to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in court of the district or county in which the lands lie.

SECT. 10. If a question of law in any criminal case be adjourned to the general court by any district court, the same may be therein agreed and determined, although such criminal be present.

SECT. 11. On the adjournment of any question of law in any civil suit, the said court shall hear, determine and certify such their determination on the same, to the court from whence the question was adjourned; but no costs shall be incurred on any adjourned question.

SECT. 12. All original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said court, and all subsequent process thereon, all attachments or other suits of what nature soever awarded by the said court, shall be issued and signed by the clerk of the said court in the name of the Commonwealth, shall bear teste by the clerk, and be returnable on the first day of the next succeeding court, except subpœnas for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by law.

The court to direct the appearance day.

SECT. 13. The appearance day to all writs and process awarded by the said court, shall be according to the direction thereof.

Grand jury to be summoned.

SECT. 14. The sheriff for the time being of the county in which the general court shall be held, shall before every meeting of the general court, summon twenty-four freeholders of this Commonwealth, qualified as the law directs, for grand jurors, to appear at the succeeding general court on the first day thereof, which the sheriff is hereby empowered to do, as well without his county as within the same, and the said twenty-four men, or any sixteen of them shall be a grand jury, who shall be sworn to enquire of and present all offences against the Commonwealth, which are cognizable in the said court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon

Proceedings on indictments, presentments, &c.

had to bring the party accused before the court, as on indictments and presentments in the district courts, having regard to the nature of the offence.

SECT. 15. The rules and proceedings in the general court, in all cases, not otherwise specially directed, shall be the same as in the district courts in similar cases, and the said court shall have the same power of awarding and refusing costs, as the district courts have in like cases.

Keeper of the public jail to attend the court.

SECT. 16. The keeper of the public jail, shall constantly attend the general court and execute the commands of the court.

The clerk to transmit lists of fines imposed by the court to the sheriffs.

SECT. 17. The clerk of the general court shall annually before the last day of January, transmit to the sheriff of each county within this Commonwealth, a list of all fines imposed by the said court in the year next preceding, to the use of the Commonwealth, on persons residing in such county, and the sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five per centum commissions; and the said clerk shall transmit copies of such lists to the auditor, to enable him to call the sheriffs to account.

Former acts repealed.

SECT. 18. All and every act, clause and parts of acts, within the purview of this act shall be, and are hereby repealed.

SECT. 19. This act shall commence in force, from and after the passing thereof.

CHAP. XIV.

An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of District Courts.

(Passed December the 12th, 1792.)

The Commonwealth divided into districts, and a superior court to be

SECT. 1. *BE it enacted by the General Assembly*, That this Commonwealth shall be divided into districts, and a superior court holden in each, in the manner, and at the times and places herein-after mentioned; that is to

held in each, at certain places and on certain days.

say:—The counties of Henrico, Hanover, Chesterfield, Goochland and Powhatan, shall compose one district, and a court shall be holden for the same at the Capitol in the city of Richmond, on the first day of April, and the first day of September in every year; the counties of James City, Charles City, New-Kent, Surry, Gloucester, Mathews, York, Warwick and Elizabeth City, shall compose another district, and a court shall be holden for the same at the city of Williamsburg, in the former Capitol, on the twenty-ninth day of April, and the twenty-ninth day of September, in every year; the counties of Richmond, Westmoreland, Lancaster and Northumberland, shall compose another district, and a court shall be holden for the same at Northumberland courthouse, on the first day of April, and first day of September in every year; the counties of Essex, Middlesex, King and Queen and King William, shall compose another district, and a court shall be holden for the same at King and Queen courthouse, on the fifteenth day of April, and fifteenth day of September in every year; the counties of Spottsylvania, Caroline, King George, Stafford, Orange and Culpeper, shall compose another district, and a court shall be holden for the same at Fredericksburg, on the twenty-ninth day of April, and the twenty-ninth day of September in every year; the counties of Frederick, Berkeley, Hampshire, Hardy and Shenandoah, shall compose another district, and a court shall be holden for the same at Winchester, on the fifteenth day of April, and the first day of September in every year; the counties of Augusta, Bath, Rockbridge, Rockingham and Pendleton, shall compose another district, and a court shall be holden for the same at Staunton, on the first day of April and the first day of September in every year; the counties of Albemarle, Louisa, Fluvanna and Amherst, shall compose another district, and a court shall be holden for the same at Charlottesville, on the fifteenth day of April, and the fifteenth day of September in every year; the counties of Fairfax, Fauquier, Loudoun, and Prince William, shall compose another district, and a court shall be holden for the same at Dumfries, on the twelfth day of May, and the twelfth day of October in every year; the counties of Harrison, Monongalia, Ohio and Randolph, shall compose another district, and a court shall be holden for the same at Monongalia courthouse, on the

third day of May, and the twentieth day of September in every year; the counties of Washington, Russell and Wythe, shall compose another district, and a court shall be holden for the same at Washington courthouse, on the second day of May, and the second day of October in every year; the counties of Norfolk, Isle of Wight, Princess Anne, Nansemond and Southampton, shall compose another district, and a court shall be holden for the same at Suffolk, on the twelfth day of May, and the twelfth day of October in every year; the counties of Prince George, Sussex, Dinwiddie, Nottoway and Amelia, shall compose another district, and a court shall be holden for the same at Petersburg, on the fifteenth day of April, and the fifteenth day of September in every year; the counties of Brunswick, Greensville, Lunenburg and Mecklenburg, shall compose another district, and a court shall be holden for the same at Brunswick courthouse, on the twenty-ninth day of April, and the twenty-ninth day of September in every year; the counties of Prince Edward, Buckingham, Charlotte, Halifax and Cumberland, shall compose another district, and a court shall be holden for the same at Prince Edward courthouse, on the first day of April, and the first day of September in every year; the counties of Bedford, Campbell, Franklin, Pittsylvania, Patrick and Henry, shall compose another district, and a court shall be holden for the same at New-London, in the late courthouse of Bedford county, now belonging to James and John Calaway, who have agreed to put the same in repair at their own expense, for the use of the district court, so to be holden in New-London, on the fifteenth day of April, and the fifteenth day of September in every year; the counties of Accomack and Northampton shall compose another district, and a court shall be holden for the same at Accomack courthouse, on the fourteenth day of May, and the fourteenth day of October in every year; the counties of Greenbrier, Botetourt, Montgomery and Kanawha, shall compose another district, and a court shall be holden for the same at Lewisburg in Greenbrier, and Botetourt courthouse, alternately, on the eighteenth day of May, and the eighteenth day of October in every year, until the proprietor of the Sweet Springs shall erect a sufficient courthouse and prison for the purpose of this act, after which time the Sweet Springs shall become the seat of the district

court. And if any of the said several days be Sunday, the courts shall in that case respectively begin on the succeeding day. Each court shall sit, if business require it, twelve days successively, Sundays exclusive (unless such sitting shall interfere with some other district court in the same circuit) and no longer, and shall be a court of record.

Length of the sessions.

Counties hereafter made, to what districts to be annexed.

SECT. 2. Those counties which shall hereafter be made, shall if taken from one county, or from two or more counties lying in the same district, remain in the district to which they formerly belonged; and if taken from two or more counties lying in different districts, the counties so to be made, shall be annexed (unless it be otherwise declared by the legislature) to such of the districts in which the old counties lie, as shall be approved by the executive, subject to the revision of the General Assembly.

Two of the judges of the general court to attend each district court.

SECT. 3. It shall be the duty of two of the judges of the general court to attend each district court at their respective terms; and the said two judges shall constitute a court for such district. In case of a temporary appointment of a judge made by the executive, such judge shall take the place of him in whose stead he was appointed: *Provided nevertheless*, that if any one of the said judges shall not attend the court, to which he shall be so allotted, in such case the other judge shall constitute a court, under the restrictions herein-after mentioned.

Each judge of the general court to qualify as a judge of the district courts,

SECT. 4. Each judge of the general court, besides the oaths required by law to be taken by him as such, shall take another oath as judge of the district courts, in the same form as that prescribed by law for a judge of the general court, changing the words "general court," for "district courts;" which oaths may be taken before the executive, any court of record, or a justice of the peace, and a certificate thereof being obtained, shall enable him to do all the duties of office, and to act as a general conservator of the peace throughout the Commonwealth. Such certificate shall be recorded in the general court, or district court where such judge shall first sit. Any person appointed a judge of the general court may act as a judge of the district courts, without having taken the oaths as a judge of the general court. Any judge who shall sit as a judge of a district court without having

And may act as such, without qualifying as a judge of the general court.

taken the oaths herein required to be taken by him, shall forfeit the sum of fifteen hundred dollars, to be recovered by action of debt or information in any court of record, one half to the use of the Commonwealth, and the other half to the use of the informer. Penalty for acting as a judge of the district courts without qualifying as such.

SECT. 5. If neither of the judges shall attend on the first day of any district court, such court shall stand adjourned from day to day until a court shall be made, if that shall happen before four of the clock in the afternoon of the sixth day. If a court shall not sit in any term, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for their decision, all such suits and things depending in court and undecided, shall stand continued to the next succeeding term. If from any cause the court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the court shall proceed to business until the end of the term, if the business depending before them be not sooner dispatched. Regulations respecting adjournment of the courts and continuance of causes when they do not sit or do not finish the business.

SECT. 6 The jurisdiction of the said courts respectively, shall be over all persons, and in all causes, matters or things at common law, which were cognizable in the general court on the twenty-second day of December, one thousand seven hundred and eighty-eight, and which shall amount to one hundred dollars, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of *error*, *supersedeas*, *mandamus*, *certiorari* to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever; except in the cases herein-after mentioned, and such cases as by the constitution of this Commonwealth, or some particular statute heretofore made or hereafter to be made, are or shall be exclusively vested in, or reserved to the general court. They shall also have the same jurisdiction concerning mills, wills, roads and letters of administration, public debtors, whether sheriffs, or others, and the recording of deeds for lands and other property within the district, and *caveats*, as the general court heretofore had by law, allowing the person entering any *caveat* to return a certified copy thereof, from the register to the district court office, within thirty days from the time of entering the said *caveat*. And the said courts shall hear and de- Their jurisdiction.

termine all controversies touching the same. *Provided also*, that writs of *habeas corpus*, *appeal*, *error*, *supersedeas*, *mandamus* and *certiorari*, and controversies concerning mills, wills, roads, caveats, and letters of administration, shall not be heard or determined by any district court, unless such writ of *error*, *supersedeas*, *mandamus*, and *certiorari*, relate to some record or proceeding within the said district, or the person praying the *habeas corpus*, or the mills, or roads, or lands for which the *caveats* have been instituted be within the same, or the wills or letters of administration be cognizable by the court of some county within the said district. Those cases in which the court of admiralty heretofore had jurisdiction by law, and which are not taken away by the constitution of the United States, are hereby transferred to the district courts to be proceeded on as the law requires in the said court of admiralty.

Mode of trial.

SECT. 7. The court shall have power to try all issues and enquire of damages by a jury in all causes before them, and to determine all questions concerning the legality of evidence and other matters of law which may arise; for which trial the court shall cause the sheriff attending them, to summon, impannel and return jurors.

Jurors to be summoned and impannelled.

Further description of jurisdiction.

SECT. 8. The court shall hear and determine motions against sheriffs or other officers, and attornies at law for refusing to pay money due to clients, for the directors of the James River and Patowmac companies, and for securities against their principals, or against each other, for contribution in all cases and according to the rules prescribed by law.

New or difficult questions may be adjourned to the general court.

SECT. 9. The court when a question, new or difficult arises, may adjourn any matter of law to the general court, or any party thinking himself aggrieved by the judgment of the district court may appeal thereupon as of right, or obtain a writ of *error* thereto from the court of appeals not of right, but at the discretion of the court.

SECT. 10. On an adjournment of a question to the general court, or an appeal or writ of *error* to the court of appeals, the same proceedings shall be had as in cases heretofore going from the general court to the court of appeals, but no costs shall be incurred on any adjourned question.

The district courts in term time, or any

SECT. 11. Each of the said district courts in term time, or any judge thereof in vacation, shall, and may

have and exercise the same power of granting injunctions to stay proceedings on any judgment obtained in any of the said district courts, as is now had and exercised by the judge of the high court of chancery in similar cases, and the said district courts may proceed to the dissolution or final hearing of all suits commencing by injunction, under the same rules and regulations as are now prescribed by law for conducting similar suits in the high court of chancery.

judge in vacation may grant injunctions to judgments obtained therein.

Sect. 12. Whensoever there shall be a vacancy in the office of clerk of any district court, it shall be lawful for a majority of the judges of the general court to appoint, by commission under their hands and seals. *Provided*, that when such vacancy shall happen during the session of a district court, or the judges of the general court shall neglect to supply any vacancy until the ensuing session of the district court in which the vacancy shall be, it shall be lawful for the judges attending such district court to appoint a clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the judges of the general court. And where the clerk of any district court cannot attend, it may be lawful for the judge or judges of such court, to appoint a clerk *pro tempore*.

Vacancy in the office of clerk, how to be supplied.

When clerks pro tempore may be appointed.

Sect. 13. Every person appointed clerk of any district court, having taken the oath for giving assurance of fidelity to the Commonwealth, and the oath required to be taken by clerks of courts, adapting the same to the district court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the clerks respectively, before any court of record in the Commonwealth, and a certificate thereof shall be entered of record in his district, wherein at the first session after his appointment, he shall moreover enter into bond with sufficient security, in the penalty of ten thousand dollars, payable to the governor or chief magistrate, and his successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feisance or misfeisance of the clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied.

Every clerk to take the oaths of fidelity and of office,

and to enter into bond with security for performance of his duty.

Sect. 14. Each clerk shall hold his office during good behaviour, shall be removable on conviction upon an indictment or information, for mis-user or non-user in of-

Tenure of their office. How remova-

ble. To reside and keep their offices at the district courthouses; their fees.

fice, and shall reside and keep his office at the district courthouse of which he is clerk; but when it is held alternately at different courthouses, then he shall keep his office at either the one or the other courthouse, as he may think best. The clerk's fees shall be the same with those of the county courts for similar services, and for all other services, the same as those of the clerk of the general court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the clerks of the county courts now are.

Taxes on judgments,

SECT. 15. A tax of one dollar shall be, and is hereby imposed on all final judgments in the district courts, which shall be paid by the party obtaining the same, to the clerk of the court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the district courts shall be the same and be taxed in the bill of costs in like manner, as is by law directed, and the taxes on appeals from the district courts, and also on attornies practising therein, shall be the same; to be collected, accounted for, and paid by the clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the county courts. But no tax shall be demanded on the judgments rendered on any appeal, writ of *error*, *supersedeas*, special verdict, or case agreed, transferred from the general court to the district courts.

and process.

Criminal jurisdiction.

SECT. 16. The district courts to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them, under the regulations herein-after prescribed; that is to say: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment, or burning in the hand, two judges shall be necessary to proceed upon the trial of the issue, whether in law or fact. *Provided always*, that if only one judge shall attend the said court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one judge shall constitute a court for such purpose. When two judges shall attend, all questions arising in criminal cases, and submitted to the court, in case the court shall be divided, shall be considered as adjudged in favor of the criminal; and if the court shall be divided upon the final judgment or sentence,

In what cases two judges shall be necessary to constitute a court.

Proviso.

When the court is divided in a criminal case, the question to be considered as

judgment shall be entered up in favor of the prisoner, and he forthwith discharged. When two judges do not attend, all criminal cases depending in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death, or burning in the hand, shall stand continued over to the next court to be holden for that district; and if two judges do not attend at such next court, every prisoner whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next term, and render himself pursuant to his recognizance, and there shall not be a sufficient court to try such prisoner on or before the third day of that court, such prisoner shall be forthwith discharged. *Provided always*, that any one judge may hear and determine a motion in behalf of the Commonwealth, for giving judgment and awarding execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted. A district court may adjourn a question of law in any criminal case, to the general court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present.

adjudged in favor of the criminal.

Mode of proceeding in criminal cases when two judges do not attend.

Certain cases excepted.

Questions of law in criminal cases may be adjourned to the general court.

SECT. 17. A public jailor shall be from time to time appointed to each district by the governor and council, who shall give bond and security to the governor and his successors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and shall be amenable to the judges of the district court; and the said judges shall have the direction of the district jail, and they are hereby authorised and required, from time to time, to order and direct such allowance to be made for the prisoners confined therein, and to fix what shall be paid to the keeper thereof for his trouble, as the said judges shall think reasonable, and moreover to certify such allowance from time to time to the auditor, who is hereby directed to debit the same, and give a warrant upon the treasurer for the payment thereof. *Provided nevertheless*, that whenever the jail of a county, is used as a district jail, the keeper of the county jail, and no other, shall act as keeper of the jail of the said dis-

A jailor to be appointed in each district.

District jails to be subject to the direction of the judges.

The judges to make allowances to the jailors.

Keepers of county jails, used as district jails, to

act as keepers of the district jails.

District jailors to be exempted from serving in the militia and on juries.

trict. The jailor during his continuance in office, shall be exempted from serving in the militia, and on juries. The keeper of the district jail shall constantly attend the said court, and execute the commands of the said court from time to time, and take or receive into his custody, all persons by the court to him committed on original or mesne process; or in execution in any civil suit, or for any contempt to the court, and him or them safely keep until thence discharged by due course of law, and may demand of every such prisoner the legal fees for diet and care;

Poor prisoners not to be detained for non-payment of prison fees.

but where such prisoner is so poor as not to be able to support him or herself in prison, the jailor shall be allowed by the public, seventeen cents per day, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or she be detained for such prison fees.

Guards may be impressed for the district jails.

The keeper of the district jail, by order of any two justices of his county, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public, a like sum and in like manner, as is by law allowed for guards impressed by sheriffs for securing prisoners.

Fees for keeping and dieting prisoners.

The fee to the sheriff of the county and to the district jailor for keeping and directing any such prisoner, shall be seventeen cents per day.

Prison rules to be assigned.

SECT. 18. Prison rules and bounds shall be assigned by the district courts.

Judgments of the district courts in criminal cases, by whom to be executed.

SECT. 19. To prevent misconstruction, it is hereby declared, that the sheriff of the county in which any district court shall sit, shall execute all judgments rendered by such court in any criminal case, provided such judgments are by law to be executed in the said county.

Allowances to be made to sheriffs attending the courts.

Every district court may make a reasonable allowance to the sheriff attending the same for his trouble, as well for his services heretofore rendered, as those in future to be by him performed, to be paid as the cryer of the general court; and the auditor of public accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as cryers in the several district courts, agreeable to the certificates of the clerks of the said courts, to be paid in the same manner as the cryer of the general court.

The court of appeals to direct the forms of writs.

SECT. 20. The judges of the court of appeals shall direct the forms of writs, from time to time, in such manner as shall seem adviseable, and until an alteration be

made therein, the forms shall be as nearly as may be, assimilated to those now used in the general court.

Directions concerning process.

SECT. 21. All writs, summonses, and other legal process, shall be issued by the clerk, bear teste in his name, and be returnable to the next court to be holden for the district, except in the case of subpœnas for witnesses, which may be returnable immediately, if issued in term time, or on any day of the term.

Writs of habeas corpus, in what manner to be granted. How to be obtained by any person committed to a county jail in a civil action

SECT. 22. Writs of *habeas corpus* may be granted by the said courts, pursuing in all respects the act, intituled, "An act directing the mode of suing out and prosecuting writs of *habeas corpus*." And where any person shall be committed in any civil action to the jail of any county or corporation for any cause or matter cognizable in the district courts, it shall be lawful for the clerk of the court of the district wherein such commitment shall be, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in jail, to issue a writ of *habeas corpus*, *cum causa*, to remove the body of such prisoner into the district jail, and the cause of his commitment into such district court, returnable on the first day of the succeeding court, if issued in vacation, on the last of the term, if sued out whilst the court is sitting.

Process in suits against the governor, councillors, judges, and sheriffs.

SECT. 23. In all actions or suits which may be commenced against the governor of this Commonwealth, any member of the privy council, any of the judges of the superior courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff or other proper officer reciting the cause of action, and summoning such defendant to appear and answer the same on the proper return day in the next district court, and if such defendant being summoned or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick, to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases.

No person to be sued out

SECT. 24. No writ of *capias ad respondendum* shall be issued against any person in any other district than

of the district in which he resides until a non est inventus has been returned on a capias issued against him in such district.

that in which he resides, until a *non est inventus* has been returned in his or her district, upon a *capias* issued against such defendant in the same suit, and every writ issued contrary thereto, shall be void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant, or otherwise, it shall be lawful to prosecute such persons jointly, in whatever district either of them may reside, and process shall be issued and served accordingly in any county or district wherein the non-resident defendant or defendants may be found, and where the bond or other writing on which such suits shall be founded, shall be filed in the general court, in a county or other inferior court, in the court of one district, and oyer thereof shall be demanded by the defendant or defendants to a suit in another district, it shall be sufficient for the plaintiffs, in the last mentioned suit, to file a copy of the bond or writing, attested by the clerk of the court, wherein the same is filed, and the defendant or defendants shall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If however the defendant or defendants shall in such case plead that the original bond or writing is not his or their deed, the clerk of the court having such original paper in his custody, shall on being summoned as a witness attend with the same at the trial of the issue for the inspection of the jury.

In what cases copies of bonds may be filed and defendants in suits thereon shall plead thereto.

In certain suits plaintiff must endorse on the writ the true species of action.

Sect. 25. In all actions to recover the penalty for breach of any penal law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney shall on pain of having his suit dismissed with costs, endorse on the original writ or subsequent process, the true species of action, that the sheriff, to whom the same is directed, may be thereby informed, whether bail is to be demanded on the execution thereof, and in the cases before mentioned, the sheriff may take the engagement of an attorney practising in the district court, endorsed on the writ, that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office, on the first day after the end of

When the sheriff may take the engagement of an attorney to appear for the defendant.

the court to which such process is returnable, which is hereby declared to be the appearance day in all process returnable to any day of the court next preceding. And although no such engagement of an attorney shall be offered to the sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody for want of appearance bail, but the sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein after directed against defendants and their appearance bail, where such is taken. *Provided always*, that any judge of the general court in actions of trespass, assault and battery, trover and conversion, and in actions on the case where upon proper affidavit or affirmation, it shall appear to him proper that the defendant or defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken by indorsement on the original writ, or subsequent process; and every sheriff shall govern himself accordingly.

Defendant not to be committed for want of bail in certain suits.

In certain cases a judge may direct an appearance bail.

SECT. 26. In all actions of debt, founded upon any writing obligatory, bill or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be endorsed on the writ as before directed, and that appearance bail is to be required, the sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the clerk's office, before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the defendant might or would be subject to, if he had appeared and given special bail, and in actions of detinue, the bail piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the court may adjudge.

Directions to the sheriff where bail is required.

When the bail may defend the suit.

How bail shall be given in detinue.

SECT. 27. And if the sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the sheriff de-

Remedy against sheriff neglecting to return sufficient bail.

part this life, before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of probat or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued. But the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office, on the first or second rule day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the court at their next succeeding term; and in all cases where the bail shall be adjudged insufficient and judgment entered against the sheriff, he shall have the same remedy against the estate of the bail as against the estate of the defendant.

Exceptions to bail, when to be made, and determined.

Sheriff's remedy against bail adjudged insufficient.

Office judgments, when set aside.

SECT. 28. And every judgment entered in the office against a defendant and bail, or against a defendant and sheriff, shall be set aside, if the defendant at the succeeding court shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately. The court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein.

Errors in the office how rectified. Remedy to the bail and sheriff against defendant's estate.

SECT. 29. In every case where judgment shall be confirmed against any defendant or defendants and bail, or the sheriff, his executors, administrators, or estate, as aforesaid, the court upon motion of such bail, or of such sheriff, his executors or administrators, or any other person on behalf of his estate, may order an attachment against the estate of such defendant or defendants, returnable to the next succeeding court, and upon the execution and return of such attachment, the court shall order the estate seized or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment, to be sold as goods taken in execution upon a *fieri facias*, and out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the defendant or defendants when required.

How special bail may be taken in the country and excepted to.

SECT. 30. Any judge of the general court, when the district court is not sitting, or any justice of the peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person

taking the same, before the next succeeding court to the clerk of the said court, to be filed with the papers in such action; and if the plaintiff or his attorney shall except to the sufficiency of the bail so taken, notice of such exception shall be given to the defendant or his attorney, at least ten days previous to the day on which such exception shall be taken, and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken.

Surrender of principal and proceedings thereupon.

SECT. 31. Every special bail may surrender the principal before the court where the suit hath been or shall be depending at any time, either before or after judgment shall be given; provided such surrender be made before the appearance day of the first *scire facias* against the bail returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the *scire facias*, and judgment for the same shall be entered against him accordingly. Upon such surrender, the bail shall be discharged, and the defendant or defendants shall be committed to the custody of the sheriff or jailor attending such court, if the plaintiff or his attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the sheriff of the county where the original writ was served, and such sheriff shall receive such defendant or defendants, and commit him, her, or them, to the jail of his county, and shall give a receipt for the body or bodies of such defendant or defendants, which shall be by the bail transmitted to the clerk of the court where the suit is or was depending. When such surrender after judgment shall be to the sheriff, he shall keep such defendant or defendants in his custody, in the same manner, and subject to the like rules, as are provided for debtors committed in execution for the space of twenty days, unless the creditor, his attorney, or agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such surrender to the creditor, his attorney, or agent, and if within the said twenty days, such creditor, his attorney or agent, shall not in writing charge the debtor or debtors in execution, he, she, or they shall be forthwith discharged out of custody, but the plaintiff or plaintiffs may nevertheless afterwards sue out any legal execution against such debtor or debtors, without suing out a *scire facias*.

Method of proceeding against a defendant in custody.

SECT. 32. When the sheriff or other proper officer, shall return on any original or mesne process, that he hath taken the body of any defendant and committed him to prison for want of appearance bail, the plaintiff may proceed, and the defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the defendant shall not be discharged out of custody until he shall put in good bail, or the plaintiff, shall be ruled by the court to accept an appearance without bail, and where any defendant after appearance entered, shall be confined to prison, the plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the defendant or his attorney, and if the defendant shall fail to enter his plea, within two months after receiving such declaration and notice, the plaintiff may have his judgment by default, as in other cases.

What further process when a capias is returned "not found."

SECT. 33. Where the sheriff or other proper officer, shall return on any writ of *capias* to answer in any civil action, that the defendant is not found within his bailiwick, the plaintiff may either sue out an *alias* or a *pluries capias*, until the defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the defendant to force an appearance; and

Proceedings on attachment returned "executed."

if the sheriff or other officer shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the plaintiff shall file his declaration and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand, unless the plaintiff shall choose in any such case to have a writ of enquiry of damages, and in other cases the damages shall be settled by a jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer until such final judgment be entered, and then be sold in the same manner as goods taken upon a *fieri facias*, and if the judgment shall not be thereby satisfied, the plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant.

Where process is executed.

SECT. 34. If any writ or process shall be executed, and for want of a return thereof to the office from which

it issued, an *alias*, *pluries*, attachment, or other process be awarded, the sheriff shall not execute such subsequent process, but shall return the first process by him executed, if it be in his possession, but if it be not in his possession, then he shall return the subsequent process, with an endorsement of the execution of such first process, and the name of the appearance bail, if any was taken, and shall also return a copy of the bail bond, on which there shall be the same proceedings, as if the said first process had been duly returned. ed but not returned.

Rules to be observed in the prosecution of suits.

SECT. 35. Rules shall be monthly held in the clerk's office of each district court, beginning the day after the rising of such court. The plaintiff shall file his declaration in the clerk's office at the next succeeding rule day, after the defendant shall have entered his appearance, or the defendant may then enter a rule for the plaintiff to declare, which if he fails or neglects to do, at the succeeding rule day, or shall at any time fail to prosecute his suit, he shall be non-suited, and pay to the defendant or tenant besides his costs, three dollars, where his place of abode is at the distance of twenty-five miles or under, from the place of holding the said district court, and where it is more, ten cents for every mile above twenty.

SECT. 36. One month after the plaintiff hath filed his declaration, he may give a rule to plead with the clerk, and if the defendant shall not plead accordingly at the expiration of such rule, the plaintiff may enter judgment for his debt, or damages and costs.

SECT. 37. All rules to declare, plead, reply, rejoin, or for other proceedings, shall be given regularly from month to month, shall be entered in a book to be kept for that purpose, and shall expire on the succeeding rule day.

SECT. 38. No plea in abatement shall be admitted or received, unless the party offering the same, shall prove the truth thereof, by oath or affirmation, as the case may require. And no plea of *non est factum* offered by the person charged as the obligor or grantor of a deed, shall be admitted or received, unless the truth thereof shall in like manner be proved by oath or affirmation.

SECT. 39. And where any person other than the obligor shall be defendant, such defendant shall prove by oath or affirmation, that he or she verily believes, that the deed on which the action is founded, is not the deed of the person charged as the obligor or grantor thereof; in which last mentioned case, the plea of *non est factum*

shall not be admitted or received without such oath or affirmation. And where a plea in abatement shall upon argument be adjudged insufficient, the plaintiff shall recover full costs, to the time of over-ruling such plea, a lawyer's fee only excepted.

SECT. 40. The plaintiff in replevin, and the defendant in all other actions, may plead as many several matters, whether of law or fact, as he shall think necessary for his defence.

Proceedings on a pluries returned "not to be found."

SECT 41. On the return of the pluries, that the defendant is not to be found, the court instead of the process to outlawry formerly used, may order a proclamation to issue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him, which proclamation shall be published at three successive court days, at the door of the courthouse of the county to which the last process was directed, and also three times in the Virginia Gazette; and if the defendant fails to appear pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

Judgments by default, non-suits, &c. when to be entered.

SECT. 42. All judgments by default for want of an appearance or special bail, or pleas as aforesaid, and non-suits or dismissions obtained in this office, and not set aside on some day of the next succeeding district court, shall be entered by the clerk as of the last day of the term, which judgment shall be final in actions of debt, founded on any specialty, bill or note in writing, ascertaining the demand, unless the plaintiff shall choose in any such case to have a writ of enquiry of damages, and in all other cases the damages shall be ascertained by a jury, to be impannelled and sworn to enquire thereof, as is herein-after directed.

Plaintiff in judgment by default may have a writ of enquiry.

Rules for docketing causes.

SECT. 43. Before every district court, the clerk shall enter in a particular docket, all such causes, (and those only) in which an issue is to be tried, or enquiry of damages to be made, or a special verdict, case agreed, demurrer, or other matter of law is to be argued, in the same order, as they stand in the course of proceeding, setting as near as may be, an equal number of causes to each day.

In what cases the court may award costs.

SECT. 44. It shall be lawful for the district courts, on giving judgment in any case removed by appeal, writ of *error*, *supersedeas* or *certiorari*, from the inferior courts, either for the appellant, appellee, plaintiff, or defendant,

and in any cause originating in the district courts, where the verdict or judgment shall be given for the defendant, to award costs to the party or parties, in whose favor such judgment shall be given; and on all motions it shall be lawful for the said courts to give or refuse costs at their discretion; and in all other causes where the plaintiff shall recover debt or damages, the costs shall be governed by law.

In what to be governed by law.

SECT. 45. A *certiorari* to remove proceedings on a forcible entry or detainer, or for any other purpose, except the removal of a suit from an inferior court, may be granted without notice.

When certiorari's may be granted without notice.

SECT. 46 For preventing errors in entering up the judgments of the said courts, the proceedings of every day shall be drawn up at large, by the clerk against the next sitting of the court, when the same shall be read in open court, and such corrections as are necessary, being made therein, they shall be signed by the presiding judge, and carefully preserved among the records. On the last day of each court, the proceedings therein shall be drawn up, read, corrected, signed and preserved as aforesaid.

Proceedings to be read and signed.

SECT. 47. When any cause shall be finally determined, the clerk of the district court, shall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, so as to make a complete record thereof, and those wherein the title of lands is determined, shall be entered in a separate book to be kept for that purpose.

Compleat records to be made of causes determined.

SECT. 48. On writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two nihils, unless the defendant resides in the district, or unless he be absent from the Commonwealth, and have no known attorney within the same. But such *scire facias* may be directed to the sheriff of any county in this Commonwealth, wherein the defendant or his attorney shall reside or be found, which being returned served, the court may proceed to judgment thereon, as if the defendant had resided in the district.

Proceedings on writs of scire facias for renewal of judgments in certain cases

SECT. 49. If any person or persons shall desire to remove any suit depending in any inferior court, into the district court, provided the same be originally cognizable therein, a *certiorari*, for such removal, may be granted by the district court, for good cause shewn upon motion, and ten days previous notice thereof, given in writing to the adverse party, or in vacation, the party desiring such

Certiorari how to be obtained.

writ, shall by petition to the judges of the general court, set forth his or her reasons, and make oath before a magistrate of the truth of the allegations, of such petition, whereupon any judge of the said court, may, under his hand, order the *certiorari* to issue, and direct the penalty of the bond, to be taken previous thereto, or may reject such petition, as to him shall seem just; provided that ten days previous notice of the time and place of applying for such writ, be given in writing to the adverse party, upon which order of the judges, the clerk shall issue the *certiorari*. *Provided*, that the party shall enter into bond with sufficient security, in the penalty so directed, with condition for satisfying all money or tobacco and costs, which shall be recovered against the party in such suit; but if any suit so removed by *certiorari*, shall be remanded to the inferior court, by *procedendo* or otherwise, such cause shall not afterwards be removed to the district court, before judgment shall be given therein in the inferior court.

Rule respecting suits remanded.

Punishment of false swearers.

SECT. 50. The clerks of the district courts, shall carefully preserve all such petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any person in such affidavit, shall wilfully make a false oath, and be thereof convicted, upon a prosecution commenced within twelve months after the offence committed, such offender shall suffer the pains and penalties directed for wilful and corrupt perjury.

No writ of error or supersedeas before final judgment; or after five years from the date thereof: saving the rights of infants, &c.

SECT. 51. No writ of *error* or *supersedeas* shall be granted in any case, until a final judgment in the county or other inferior court.

SECT. 52. No *supersedeas* or writ of *error*, shall be granted to any judgment in the district or county, or other inferior court, after the expiration of five years, from and after the date thereof, saving the rights of infants, *femes covert*, persons *non compos*, in prison, or beyond seas, until the expiration of two years after the disability ceases.

Appeals to the district courts in certain cases.

SECT. 53. Where any person or persons, body politic or corporate, shall think themselves aggrieved by the judgment, or sentence of any county court or court of hustings, in any action, suit or contest whatsoever, where the debt or damages, or other thing recovered or claimed in such suit, exclusive of the costs, shall be of the value of one hundred dollars, or three thousand pounds of tobacco or upwards, or where the title or bounds of land shall be drawn in question, or the contest shall be con-

cerning mills, roads, the probat of wills, or certificates for obtaining administration, such person or persons, body politic or corporate, may enter an appeal from such judgment or sentence, to the first day of the next court of the district, in which such county is.

How supersedeas may be obtained.

SECT. 54. The party praying a writ of *supersedeas*, shall petition the district court for the same, pointing out the errors he means to assign in the proceedings, and procure some attorney practising in such court respectively, to certify, that in his opinion there is sufficient matter of error for reversing the judgment, whereupon such courts in their session, or any judge of such court respectively in vacation, may order such writ to be issued, or reject the petition, as to them shall seem just.

Writs of error or supersedeas not to be allowed unless judgment amounts to a certain sum.

SECT. 55. Writs of *error* or *supersedeas*, may be granted by a district court, or any judge of the general court, to a judgment of a county court, where such judgment shall be of the value of thirty-three dollars and thirty-three cents, or one thousand pounds of tobacco, or upwards.

Bond and security to be given on obtaining an appeal, writ of error, &c. Sufficient, if given by one of several parties.

SECT. 56. Before granting any appeal, or the issuing of any writ of *error* or *supersedeas*, the party praying the same, shall enter into bond with sufficient security, in a penalty to be fixed by the court or judge granting the same, with condition to pay the amount of the recovery, and all costs and damages awarded, in case the judgment or sentence be affirmed. Where several appeal, or obtain a writ of *error* or *supersedeas*, bond and security given by any party, shall be sufficient.

Judgment on reversal.

SECT. 57. If upon hearing any writ of *error* or *supersedeas*, the judgment of the inferior court be reversed in whole or in part, the district court shall enter such judgment thereupon, as ought to have been entered in the inferior court.

Bonds on appeals, &c. may be given by any responsible person.

SECT. 58. Bonds to be given in court for obtaining writs of *error*, *supersedeas*, *certiorari*, appeals, or any other cause, shall be valid and sufficient if given by a responsible person and security, although the party interested in the event of the suit be not an obligor.

Damages upon affirmance.

SECT. 59. Where the defendant in any personal action, appeals, or obtains such writ of *error* or *supersedeas*, if the judgment be affirmed, the damages besides costs shall be ten per centum per annum upon the principal sum and costs, recovered in the inferior court, in satisfaction of all damages or interest.

SECT. 60. In real or mixed actions the damages shall be thirty-three dollars and thirty-three cents, or two thousand pounds of tobacco besides costs, and where the plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the inferior court be affirmed, the party appealing shall pay to the other all costs.

Rule respecting filing records on appeals.

SECT. 61. If a record on an appeal, writ of *error* or *supersedeas*, be not delivered to the clerk of the district court before or during the second term of such court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shown to the court to the contrary; and after such dismission, no writ of *error* or *supersedeas*, shall be allowed.

Attorney General to appoint deputies.

SECT. 62. It shall be the duty of the attorney general to nominate and appoint proper persons to prosecute for the Commonwealth, in such courts as he cannot attend himself.

Lists of fines imposed by the courts to be sent to the sheriffs;

SECT. 63. The clerk of each district court shall annually before the last day of January, transmit to the sheriff of each county within the district, a list of all fines imposed by the district court in the year next preceding to the use of the Commonwealth, on persons residing in such county, and the sheriffs shall respectively

to be collected by them,

proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five per centum commissions;

and copies of such lists to be sent to the auditor.

and the said clerks shall severally transmit copies of such lists to the auditor, to enable him to call the sheriffs to account.

Jurisdiction as to causes now pending.

SECT. 64. The said courts shall have jurisdiction respectively in all causes, matters and things in the district courts respectively depending at the commencement of this act, and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any district court at the commencement of this act, by reason of the passing thereof, but the same shall be therein tried and determined as if this act had never been made.

Former acts repealed.

SECT. 65. All and every act and acts, clauses and parts of acts, containing any thing within the purview of this act, shall be, and are hereby repealed.

SECT. 66. This act shall commence in force on the first day of January, one thousand seven hundred and ninety-three. Commencement of this act.

CHAP. XV.

An act reducing into one, the several acts concerning the County and other inferior Courts of this Commonwealth.

(Passed December the 3d, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That in every county, city, corporation, and borough within this Commonwealth, in which the power of holding courts hath been heretofore, or shall hereafter be vested by law, a court, to be denominated the court of such county, city, corporation, or borough, respectively, shall hereafter continue to be held by the justices of such counties, and the magistrates of such cities, corporations and boroughs respectively, at the times and places, and in the manner herein-after directed; any four of which justices or magistrates shall constitute a court, except in such cases where a greater number may by any law be directed. County and corporation courts to be held by the justices thereof. Any four of them to constitute a court.

SECT. 2. Every person appointed a justice of the peace for any county or corporation, before his entering upon and executing the said office, shall publicly in the courthouse of his county or corporation, and on a court-day, take the oath of fidelity to the Commonwealth, as also the following oaths, to wit:—"You shall swear that "as a justice of the peace, in the county (or corporation) of , in all articles in the commission to "you directed, you shall do equal right to the poor and "to the rich, to the best of your ability and judgment, "and according to law; and you shall not be of counsel "of any quarrel hanging before you, and issues, fines, "and amercements that shall happen to be made, and "all forfeitures which shall fall before you, you shall "cause to be entered without any concealment or embezzling; you shall not let, for gift, or other causes, "but well and truly you shall do your office of a justice Justices shall be sworn. Their oath.

"of the peace, as well within your county (or corpora-
"tion) court, as without, and you shall not take any fee,
"gift, or gratuity, for any thing to be done by virtue of
"your office; and you shall not direct or cause to be di-
"rected, any warrant by you to be made to the parties;
"but you shall direct them to the sheriff or other officer
"of the Commonwealth, or other indifferent person, to
"do execution thereof. So help you GOD." The oath of a justice of the county or corporation courts in chancery:—"You shall swear that well and truly you will
"serve the Commonwealth in the office of a justice in
"the county (or corporation) court of , in chan-
"cery, and that you will do equal right to all manner of
"people, great and small, high and low, rich and poor,
"according to equity and good conscience, and the laws
"and usages of the Commonwealth of Virginia, without
"favor, affection, or partiality. So help you GOD." And if any person whatsoever shall presume to execute the office of a justice of the peace, or magistrate of a county or corporation court, without first qualifying himself in the manner by this act before required, he shall for every such offence, forfeit and pay one thousand dollars, one moiety to the use of the Commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any court of record in this Commonwealth.

Oath of a justice in chancery.

Penalty for acting without qualifying.

Courts may be adjourned from day to day for six days.

SECT. 3. If the the business of any of the said courts cannot be determined on the court day, the justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them, shall be heard and determined, or otherwise continued in the manner herein-after directed.

How may be adjourned when the justices do not attend;

SECT. 4. If a sufficient number of justices should not attend to form a court on the first day of any court, or any subsequent day thereof, it shall and may be lawful for any one justice to adjourn the court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters and things therein depending, shall stand continued to the next succeeding court. If from any cause the court shall not sit on any day in a term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed, the court shall proceed to business until the end of the term, if the business depending before them be not sooner dis-

patched. No discontinuance shall take place in any case by reason of the justices failing to make a court, or to adjourn; but in such cases, all suits, process, matters and things depending, shall stand continued, and all returns and appearances, shall be made to the next succeeding court in course, in the same manner as if such succeeding court had been the same court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds and obligations, for appearance, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding court, as if the next succeeding court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the court in course, shall stand continued in the same order to such court, without any fee to the clerk for the continuance of such as shall not then be called over.

Suits not to be discontinued by the justices failing to hold court.

SECT. 5. The justices of every such court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said courts, at the common law, or in chancery, within their respective counties and corporations, and all such other matters as by any particular statute, is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than five dollars, or two hundred pounds of tobacco, other than prosecutions on any penal law of this Commonwealth; and also such cases as are by law exclusively vested in any other tribunal.

Jurisdiction of the court.

Certain causes excepted.

SECT. 6. When the cause of action shall not exceed five dollars, or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one justice of the peace, who may give judgment, and thereupon award execution against the goods and chattels of the debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the sheriff or constable to whom directed, in the same manner, as other writs of *fieri facias*,

Causes determinable before one justice.

But he may not issue execution against

the defendant's body.

are to be executed and returned, but no execution shall be by him granted against the body of the defendant.

Quarterly sessions.

SECT. 7. The said courts shall be held at the several respective places, at present assigned by law for that purpose, or at such place or places, as shall be hereafter lawfully appointed, on the several days for holding courts heretofore in such counties or corporations respectively appointed by law, in the months of March, May, August, and November, in every year, except as herein after excepted, for the trial of all presentments, criminal prosecutions, suits at common law and in chancery, where the sum exceeds twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter shall be brought in any of the said courts, and shall continue for the space of six days, unless the business be sooner determined; which sessions of the said courts shall be denominated the quarterly sessions of such courts respectively. *Provided always*, that in the counties of Montgomery, Washington, Russell, and Wythe, such courts shall be held on the days now by law respectively appointed for holding courts in the months of April, June, September and November; and in the counties of Henry and Cumberland, in the months of February, April, July and October; and in the counties of Norfolk, Princess Anne, Northampton, Nansemond Stafford, Spotsylvania, Fairfax, Loudoun, Prince William, Berkeley, and Ohio, and in the borough of Norfolk, in the months of March, June, August, and November; and in the county of Pendleton, in the months of April, June, September and December; and in the county of Hampshire, in the months of March, May, September and November in every year; and in the counties of King George and Frederick, in the month of June, annually, instead of the month of May.

Monthly sessions.

SECT. 8. A monthly session of the said courts shall be held in like manner, on the days heretofore by law appointed for holding courts in such counties and corporations respectively, in every month in which there shall not be a quarterly session, for the trial of petitions for small debts, or for trover and conversion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of probat and administration, and for the transaction of all business, which by law is or shall be made cognizable in a county or corporation

court, except such as has been herein assigned to the court of quarter sessions. *Provided nevertheless*, that injunctions in chancery may be granted or dissolved, judgments on attachments against absconding debtors, where the property attached shall not be replevied, entered up, and all matters touching the breach of the peace, and good behaviour, motions on replevy bonds, and against sheriffs and other public officers and defaulters, may be heard and determined either at a monthly or quarterly court. Concurrent jurisdiction of monthly and quarterly courts.

Sect. 9. All original process to bring any person or persons to answer in any action or suit, indictment or information in the said courts, and all subsequent process thereon, all process in chancery awarded by the said court, and all other writs of what nature soever, shall be issued and bear teste by the clerk of such courts respectively, and made returnable to the first day of the next succeeding quarterly term; except subpœnas of injunction, attachments, petitions and subpœnas for witnesses, which shall be returnable to the next succeeding court, be the same monthly or quarterly, as the case may require. Method of issuing and returning process.

Sect. 10. Special bail may be taken in court at the quarterly sessions, or at the monthly courts. Special bail, when it may be taken in court.

Sect. 11. The county and corporation courts, at their quarterly sessions, shall have similar jurisdiction with the high court of chancery, and shall proceed in the same manner against the estate and effects of persons residing out of this state, or absconding to avoid being served with the process of the said court; and may hear and determine all *caveats* against grants for lands lying within the jurisdiction of the said courts respectively. Proceedings against absent defendants, as in the high court of chancery. May hear and determine caveats against grants for land.

Sect. 12. All writs of execution upon judgments obtained in the quarterly or monthly courts, and all executions and other process to enforce any decree in chancery, obtained in either of the said courts, may be made returnable to the first day of a quarterly or monthly court, provided there be not less than fifteen, nor more than ninety days between the teste and return of such execution or process. Executions when returnable.

Sect. 13. From time to time, forever hereafter, the court of every county and corporation within this Commonwealth, shall cause to be erected and kept in repair, (or where the same shall be already built, shall maintain and keep in good repair) within each respective county and corporation, and at the charge of such county or corporation, one good and convenient courthouse of stone, Courthouses and other public buildings shall be erected and kept in repair.

brick, or timber, and one common jail and county prison, well secured with iron bars, bolts, and locks, and also one pillory, whipping-post and stocks; and where land shall not be already provided and appropriated for that purpose, such court may purchase two acres, whereon to erect the said public buildings, for the use of their county or corporation, and for no other use whatsoever. And to every courthouse, already built and established, two acres of the land, built upon and adjacent thereto, not having any house, orchard, or other immediate convenience thereon, shall be and remain appropriated to such courthouse, and the fee simple thereof, is hereby declared to be in the court of the same county, and there successors, to the use of such county as aforesaid; but where a courthouse is already built in any city or town, the land now laid off for the same, and the other public buildings shall be judged and held to be sufficient. And if the justices of any county or corporation court, shall at any time hereafter fail to keep and maintain a good and sufficient prison, pillory and stocks, every member of the court, so failing, shall forfeit and pay ten dollars, one moiety to the Commonwealth, the other moiety to the informer; to be recovered with costs, by action of debt or information, in any court of record of this Commonwealth. And moreover, the court so failing, shall be liable to the action of the sheriff from time to time, for all damages recovered against him, upon any escape for want of a sufficient prison; and such sheriff or his executors, or administrators, shall and may sue for the same by action of debt or information, brought in the general court against the justices so failing, or the survivors of them, and upon recovery in such suit, the judges of the said court, are hereby empowered and required to proportion how much every particular justice of the court so failing, who shall be then living, and the executors or administrators of such as shall be deceased, shall pay respectively, and to enter up judgment accordingly, whereupon one or more executions shall and may be issued.

Penalty for failing to keep a sufficient prison, &c.

Public jail in Williamsburg to be used as the jail thereof, and of James City county.

SECT. 14. All persons taking on civil or criminal process in the county of James City, may be committed to the public jail in the city of Williamsburg, in like manner as if the same was within the limits of the said county; and the city of Williamsburg shall have a right to use the public jail therein, as the jail of the said city, and

the district jailor therein shall act as keeper of the jail of the said city.

Prison rules to be assigned.

Sect. 15. The justices of every county and corporation, shall be, and they are hereby empowered and required, to mark and lay out the bounds and rules of their respective county and corporation prisons, not exceeding ten acres of land, adjoining to such prison, which marks and bounds shall be recorded, and renewed from time to time, as occasion shall require; and every prisoner not committed for treason or felony, giving good security to keep within the said rules, shall have liberty to walk therein, out of the prison for the preservation of his or her health, and keeping continually within the said bounds, shall be adjudged in law a true prisoner.

Ducking-stool may be provided.

Sect. 16. And if the court of any county or corporation, shall at any time think fit, they are hereby authorised and empowered, at the charge of their county or corporation, to cause a ducking-stool to be built in such convenient place as they shall direct.

Process to be executed three days before return day.

Sect. 17. All process issuing from such courts to bring any person to answer in any suit in such courts, shall be executed three days at least before the day therein mentioned for the return thereof; and if any process shall be delivered to the sheriff or officer so late that he cannot execute the same three days before the return day, such process shall not be executed, but the officer shall return the truth of the case. And if any original process be taken out within three days before the next court day, such process shall be returnable to the next court after the said three days, and not otherwise; and all process issued or returnable, in other manner than is herein before directed, shall be null and void. *Provided nevertheless*, that any justice or justices of peace, by his or their warrant, may cause any traitor, felon, pirate, rioter, breaker of the peace or other criminal offender, to be apprehended and brought before the same, or some other justice or justices, or before the next court, although there be not three days between the execution of such warrant and the return thereof.

When returnable, if issued within three days before the next court day.

If issued or returnable in any other manner to be void.

Criminal cases excepted.

Process in suits against the governor, councillors, judges and sheriffs.

Sect. 18. In all actions or suits which may be commenced against the governor of this commonwealth, any member of the privy council, any of the judges of the superior courts, or the sheriff of any county, during his continuance in office, instead of the ordinary process, a summons shall issue to the sheriff, or other proper offi-

cer, reciting the cause of action, and summoning such defendant to appear and answer the same, on the proper return day in the next court; and if such defendant, being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the court shall proceed against such defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the sheriff of that county in which the defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick to satisfy the said judgment, a *capias ad satisfaciendum* may be issued, as in other cases.

In certain suits plaintiff to endorse on the writ the true species of action.

SECT. 19. In all actions to recover the penalty for breach of any penal law, not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover, or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the plaintiff or his attorney, shall, on pain of having his suit dismissed with costs, endorse on the original writ, or subsequent process, the true species of action, that the sheriff to whom the same is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the cases before mentioned, the sheriff may take the engagement of an attorney practising in the county court, endorsed on the writ that he will appear for the defendant or defendants, and such appearance shall be entered with the clerk in the office on the first day after the end of the court to which such process is returnable. And although no such engagement of an attorney shall be offered to the sheriff, he shall nevertheless be restrained from committing the defendant to prison, or detaining him in his custody for want of appearance bail; but the sheriff in such case shall return the writ executed, and if the defendant shall fail to appear thereto, there shall be the like proceeding against him only, as is herein-after directed against defendants and their appearance bail, where such is taken. *Provided always*, that any justice of the peace, in actions of trespass, assault and battery, trover, and conversion, and in actions on the case, where, upon proper affidavit, or affirmation, it shall appear to him proper, that the defendant or defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken by endorsement on the original writ, or

In which sheriff may take the engagement of an attorney to appear for defendant; but shall not commit him for want thereof or of bail.

Any justice may direct bail to be taken.

subsequent process; and every sheriff shall govern himself accordingly.

Directions to the sheriff where bail is required.

SECT. 20. In all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which cases the true species of action shall be endorsed on the writ, as before directed, and that appearance bail is to be required, the sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the clerk's office before the day of appearance; and if the defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery, as the defendant might or would be subject to, if he had appeared and given special bail; and in actions of detinue the bail-piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate sued for, or the alternative value, as the court may adjudge.

When bail may defend the suit.

How bail is to be given in detinue.

Remedy against sheriff neglecting to return sufficient bail.

SECT. 21. And if the sheriff or other officer shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the court, and the defendant shall fail to appear and give special bail, if ruled thereto, in such case the sheriff or other officer may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the sheriff or other officer depart this life before judgment be confirmed against him, in such case the judgment shall be confirmed against his executors or administrators, or if there shall not be a certificate of probat or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued; but the plaintiff shall object to the sufficiency of the bail during the sitting of the court next succeeding that to which the writ is returnable, or in the office on the first or second rule day, and at no time thereafter.

Exceptions to bail when to be made.

Defendant upon appearance may be ruled to give special bail.

SECT. 22. And upon appearance of the defendant in any personal action, where the plaintiff shall move that the defendant may be held to special bail, the court may if they see cause, rule him to give bail accordingly, or commit him in custody of the sheriff or other officer till such bail be given; and the person and persons becoming special bail, shall be liable to the judgment and recovery

against such defendant, unless he render his body in execution in discharge of his bail.

No bail to be demanded of a resident in one county who is sued in another, until a return of non est inventus.

SECT. 23. No bail shall be demanded on a writ of *capias ad respondendum*, which shall be issued against a resident of one county in any other, until a *non est inventus* has been returned in the county or corporation in which the defendant resides, upon a *capias* issued in the same suit against such defendant, and every writ issued contrary thereto without an endorsement of "no bail required," shall be voidable at any time before issue joined, or judgment by default, *nil dicit* or *non sum informatus* thereon, but not afterwards. *Provided*, that no such writ issuing from the county or corporation in which the cause of action accrued, shall be voidable by reason of bail being required thereon.

Proviso.

Any justice may take recognizance of special bail.

SECT. 24. Any justice of the peace, when the courts are not sitting, may take recognizance of special bail in any action therein depending, which shall be returned by the justice taking the same to the clerk of the court, before the next succeeding quarterly court, to be filed with the papers in such action.

Exceptions to bail, how to be made.

SECT. 25. If the plaintiff or his attorney shall except to the sufficiency of the bail so taken by a justice out of court, notice of such intended exception shall be given to the defendant or his attorney, at least five days previous to the day at which such exception shall be taken; and if such bail shall be adjudged insufficient by the court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken.

The same proceedings against bail and sheriffs as in the district courts.

SECT. 26. The same proceedings shall be had against the common bail and sheriff, or other officer in any suit, or either of them, their executors or administrators, and they or either of them may have the same remedy against the defendant, or his executors or administrators, in the county and corporation courts at their quarterly sessions, as is directed to be had in any district court in such cases.

Rules to be held monthly in clerk's office;

Rule days to be appointed by the courts.

SECT. 27. All imparlances to be taken, and pleadings to be filed, both in common law and in chancery, until an issue is joined, or interlocutory decree or judgment obtained, shall be done at rules to be held monthly in the clerk's office, on such days as the courts at their respective quarter sessions shall appoint; which rules shall be distinctly entered in a book, to be kept for that purpose, and the clerk shall be allowed the same fees for entering such rules, as if the same had been made in court.

Rules to be given from month to month in the office;

SECT. 28 All rules to declare, plead, reply, rejoin, and for other proceedings, shall be given from month to month, and shall be made and entered with the clerk of the court, in the same manner as rules are made and entered with the clerks of the district courts, in suits depending in them. *Provided nevertheless*, that the court may at their quarterly session next after any of the said rules and proceedings have been had in the clerk's office, for good cause to them shewn, set aside any of the said rules and proceedings, and make such order concerning the same, as to them may appear just and right.

but may be set aside at the quarterly sessions.

Office judgments when to be set aside.

SECT. 29. Where any final judgment shall be entered up in the office against any defendant or defendants and their securities, or against any defendant or defendants and sheriff, or other officer by default, execution may issue thereon after the next succeeding quarterly court, unless the same be set aside during such court, in like manner as office judgments in the district courts may be set aside; and all office judgments so set aside, shall be immediately put at the end of the issue docket.

Directions concerning writs of scire facias to revive judgments.

SECT. 30. On writs of *scire facias* for renewal of judgments, no judgment shall be rendered on the return of two nihils, unless the defendant reside in the county or corporation, or unless he be absent from the Commonwealth, and have no known attorney within the same. But such *scire facias* may be directed to the sheriff or other officer of any county or corporation in this Commonwealth, wherein the defendant or his attorney shall reside, or be found; which being returned served, the court may proceed to judgment thereon as if the defendant had resided in the county or corporation.

Rules in docketing causes.

SECT. 31. The clerk shall proportion the causes upon the docket, from the first day of the court to the sixth, both inclusive, if in his opinion so many days will be expended in trying the causes ready for trial, and issue subpœnes for witnesses to attend the days to which the causes stand for trial. He shall docket the causes in order as they are put to issue, and no cause shall be removed from its place on the docket, unless where the plaintiff at the calling the same, be unprepared for trial, in which case, and no other, shall the cause be put at the end of the docket.

Process where the defendant is not found.

SECT. 32. And for the better ascertaining what process may be sued out, where the sheriff or other officer returns that the defendant is not to be found in his baili-

wick; *It is hereby further enacted*, That where any sheriff, or other officer, shall make such return, the plaintiff or plaintiffs in any civil action, shall and may sue out an attachment against the estate of such defendant, returnable as herein-before is directed for the returns of original and other subsequent process thereupon, to force an appearance, or an *alias* or *pluries capias*, at the election of the plaintiff or plaintiffs; and if the sheriff or other officer, shall return any goods by him attached, the plaintiff shall file his declaration, and be entitled to a judgment for his whole debt, and the goods so attached shall remain in custody of the sheriff till such judgment obtained, and then be sold and disposed of, in the same manner as goods taken in execution upon a writ of *fieri facias;* and if the judgment shall not be satisfied by the goods attached, the plaintiff may have an execution for the residue. *Provided always*, that all goods so attached, shall and may be replevied by the defendant's giving bond and security to the sheriff or other officer attaching the same, in like manner as by law is directed on the execution of mesne process, or by the defendant's appearance, and putting in good bail, if ruled by the court to give special bail. But no sheriff shall return upon any writ to him directed, that the defendant is not found in his bailiwick, unless such sheriff or his officer shall have actually been at the dwelling-house, or place of abode of such defendant, and not finding him, shall have there left an attested copy of the same writ or process; and where any defendant shall be a known inhabitant of another county, and not of the county of that sheriff to whom the process shall be directed, such sheriff shall return the truth of the case, but not that the person is not found in his county, and thereupon such process issued from any county court clerk's office, as to such defendant, shall abate and be dismissed.

When the sheriff may return that the defendant is not to be found.

Declarations, &c. to be preserved in the clerk's office.

Sect. 33. The clerk of the court shall carefully preserve the declarations, pleas, evidences, and all other papers relating to any cause in court, and they shall be all filed together in the office.

In land causes pleadings to be in writing and complete records to be made up.

Sect. 34. In all cases where the title or bounds of any estate in land is determined, the pleadings shall be all in writing, and shall be entered at large with the judgment thereon, in particular books kept for that purpose only.

Minutes of proceedings to be read in

Sect. 35. And for preventing errors in entering up the judgments of the court, the justices, before every adjournment, shall cause the minutes of their proceedings to be

publicly read by the clerk, and corrected where necessary, and then the same shall be signed by the first justice in commission then sitting; which minutes so signed, shall be taken in a book, and carefully preserved among the records; and no proceedings or judgments of any court, shall be of force, or valid, until the same be so read and signed. court and signed.

SECT. 36. And for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, That in all personal actions, where the declaration shall plainly set forth sufficient matter of substance for the court to proceed upon the merits of the cause, the suit shall not abate for want of form; and that where a plea in abatement shall be pleaded in any action, and upon argument the same shall be adjudged insufficient, the plaintiff or plaintiffs in such action shall recover against the defendant or defendants full costs, to the time of overruling such plea, including the costs of that court, a lawyer's fee only excepted. Suits shall not abate for want of form. Costs upon a plea in abatement overruled.

SECT. 37. Any debt or penalty, amounting to more than five dollars, or two hundred pounds of tobacco, and not exceeding twenty dollars, or eight hundred pounds of tobacco, may be demanded by petition to the court of a county, city, or borough. The clerk of the court shall draw the petition, stating therein how the debt became due, or by breach of what act of Assembly the penalty was incurred, and shall issue a summons directed to the sheriff or other proper officer, commanding him to summon the defendant to appear and answer the petition; and the defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account which shall be filed, when the debt shall have arisen by account, the court shall and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just. Method of recovering debts by petition.

SECT. 38. Any person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the defendant, and converted to his use, where the goods with the damages are not of greater value than twenty dollars, or eight hundred pounds of tobacco. Whosoever shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a Detinue and trover for goods, or the value not exceeding twenty dollars shall be brought by petition.

jury, that he might have brought a petition by this act, shall be non-suit.

Plaintiff proceeding otherwise shall be non-suit.

SECT. 39. *And be it further enacted*, That in all suits in the county and corporation courts in chancery, the following rules and methods shall be put in practice and observed, to wit:

Rules to be observed in the prosecution of suits in chancery.

SECT. 40. The complainant shall file his bill on the first rule day after the return of the subpœna executed, or upon the first appearance of the defendant, upon pain of having the same dismissed by the defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand dismissed with costs.

SECT. 41. Upon the complainant's dismissing his bill, or the defendants dismissing the same for want of prosecution, the defendant shall recover his costs.

SECT. 42. The complainant may amend his bill before the defendant appears, or in a small matter, afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the defendant shall be put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill.

SECT. 43. If any defendant shall not appear upon attachment returned executed, or being brought into court upon any such process, shall obstinately refuse to answer the complainant's bill, such bill shall be taken for confessed, and the matter thereof decreed accordingly.

SECT. 44. The defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next court; and if no answer be put in upon return of the attachment executed, the complainant's bill shall be taken for confessed, and the matter thereof decreed.

SECT. 45. And if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the complainant's bill shall be taken for confessed, and the matter decreed as aforesaid.

SECT. 46. No process of contempt shall issue without oath made of the service of the subpœna, unless the same be returned served by a sworn officer.

SECT. 47. If the defendant does not file his answer within three months after the plaintiff shall have filed his

bill, having also been served with the subpœna at least three months before the said time for filing his answer, the plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the court to bring in the defendant to answer interrogatories, at his election, and proceed on to hearing in the two last cases, as if the answer had been filed, and the cause was at issue: *Provided*, that the court, for good cause shewn, may allow the answer to be filed, and grant a further day for such hearing.

SECT 48. Every defendant shall be at liberty to swear to his answer, before any justice of the peace.

SECT. 49. When any cross bill shall be preferred, the defendant or defendants in the first bill shall answer thereto, before the defendant or defendants in the second bill shall be compellable to put in his or their answer to such cross bill.

SECT. 50. The complainant shall reply or file exceptions, at the next rules after the defendant's putting in his answer; and if the complainant shall not then reply, nor file exceptions, his bill shall be dismissed with costs.

SECT. 51. When the complainant files exceptions against the answer of any defendant or defendants, as insufficient, if the defendant puts in a sufficient answer at the next rules, the same shall be received without costs, but if the defendant's attorney insists on the sufficiency of the answer put in, and neglects or refuses to put in a sufficient answer, or shall put in another insufficient answer, the plaintiff may set down his exceptions, to be argued the next court; and after exceptions so filed, or any second insufficient answer put in, no further or other answer shall be received, but upon payment of costs.

SECT. 52. And if upon argument, the complainant's exceptions shall be over-ruled, or the defendant's answer adjudged insufficient, the complainant shall pay to the defendant, or the defendant to the complainant, as the case shall be, such costs as shall be allowed by the court.

SECT. 53. Upon every second answer adjudged insufficient, costs shall be doubled. If any defendant shall put in a third insufficient answer, which shall be so adjudged, such defendant shall be examined upon interroga-

tories, and committed till he shall perfectly answer those interrogatories, and pay costs.

Sect. 54. If the defendant after process of contempt, put in an insufficient answer, which shall be so adjudged, the complainant shall not be obliged to take out a new subpœna, but may go on to the attachment with proclamation, as if no answer had been put in.

Sect. 55. Where the complainant conceives sufficient matter to be confessed by the defendant's answer, he may set down the cause for, and proceed to hearing.

Sect. 56. After answer filed, and no plea in abatement to the jurisdiction of the court, no exception for want of jurisdiction shall ever afterwards be made, nor shall the high court of chancery, or any other court ever thereafter, delay or refuse justice, or reverse the proceedings for want of jurisdiction, except in cases of controversy respecting lands lying without the jurisdiction of such court, and also of infants and *femes covert*.

Sect. 57. No defendant shall be admitted to put in a rejoinder, unless it be filed at the next rules after replication put in, but the complainant may proceed to the examination of witnesses.

Sect. 58 After an attachment with proclamation returned, no plea or demurrer shall be received, unless by order of court, upon motion.

Sect. 59. If the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to proofs; and if such plea shall be adjudged false, the complainant shall have the same advantage as if the same plea were found false by verdict at the common law.

Sect. 60. If a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer shall thereafter be received, but the defendant shall answer the allegations of the bill.

Sect. 61. The complainant at the next rules after a plea or demurrer put in, may cause the same to be set down to be argued; but if the complainant shall not proceed to have the same set down, before the second court after plea or demurrer put in, the bill may be dismissed of course, with costs.

Sect. 62. Upon a plea or demurrer argued and overruled, costs shall be paid as where an answer shall be

adjudged insufficient, and the defendant shall answer at the next rules; but if adjudged good, the defendant shall have his costs.

SECT. 63. If any defendant shall obstinately insist on a demurrer, and refuse to answer, where the court shall be of opinion that sufficient matter is alledged in the bill to oblige him to answer, and for the court to proceed upon, the bill shall be taken for confessed, and the matter thereof decreed accordingly.

Issues to be tried when necessary.

SECT. 64. The said court in its discretion may direct an issue to be tried at their own bar, whenever it shall be judged necessary.

Right of appeal, how to be exercised.

SECT. 65. The right of appeal from the county and corporation courts to the high court of chancery and to the district courts, shall be exercised in the same manner as prescribed in the acts "reducing into one the several acts concerning the high court of chancery," and "reducing into one the several acts concerning the establishment, jurisdiction and powers of district courts."

When the plaintiff appeals, special bail bound to answer the judgment of the district court.

SECT. 66. If the plaintiff or demandant appeals, then the special bail given by the defendant or tenant in the county or inferior court, shall also stand bound to answer the judgment of the district court, and such appellant shall give bond with security, in the sum of sixty-three dollars and thirty-three cents, that he will prosecute his appeal with effect; and if he do not appear and prosecute the same, his bond shall be forfeited to the defendant or appellee.

After issue joined no cause to be removed by certiorari or habeas corpus.

SECT. 67. No writ or writs of *certiorari* shall be received or allowed by the justices of any county court or other inferior court, to whom such writ or writs shall be directed and delivered, nor shall any cause be removed by *habeas corpus* after issue or demurrer joined, in the cause or causes depending in such court or courts, and intended to be removed by such writ or writs, but they shall and may proceed in the said cause or causes as though no such writ had been sued forth, or delivered to them or any of them; and if any cause be removed or stayed by such writ, and afterwards the same cause shall be remanded, or sent back again, by any writ of *procedendo*, or other writ whatsoever, such cause shall never afterwards be removed, or stayed before judgment, by any other writ or writs whatsoever, to be sued forth from either of the district courts, or from the high court of chancery.

Rule respecting suits remanded.

Injunctions, how to be obtained.

SECT. 68. Before any injunction in chancery shall be granted to stay proceedings at law in any action, suit, or judgment whatsoever, in any county or corporation court, if the court shall not be otherwise satisfied with the matter of equity, the party praying such injunction shall make oath before the court, or before some magistrate, of the truth of the allegations of his injunction-bill; which affidavit shall be certified at the foot of the bill, and he, she, or they, shall moreover enter into bond, with one or more sufficient securities, in the clerk's office, for satisfying and paying all such sums of money and tobacco, and costs, which shall be then due, or become due, to the plaintiff or plaintiffs, in the action, suit, or judgment, so to be stayed, and also for the payment of such costs as shall be awarded against him, her, or them, in case the injunction shall be dissolved; and the clerk shall endorse on the subpœna that the bond is filed.

Proceedings at common law shall conform to the practice of the district courts, and in chancery to that of the high court of chancery.

SECT. 69. The proceedings of the said courts in common law cases, shall as nearly as may be, conform to the practice in the district courts. And in chancery cases, the same shall conform to the practice of the high court of chancery in like cases, except in such cases as are or shall be otherwise particularly directed by any act of the General Assembly.

Clerks shall issue executions on the application of any person obtaining judgment; and attachments against guardians failing to account.

SECT. 70. The clerks of the several county and corporation courts in this Commonwealth shall be, and they are hereby empowered and required, upon the application of any party who hath obtained or shall obtain any judgment, decree or final order in such courts, to issue any legal or proper writ of execution or attachment, as the case may require, as also to issue attachments against executors, administrators, or guardians, who shall fail to account when ordered so to do by such court, directed to the sheriff of the same, or any other county, provided there be fifteen days at least, and not more than ninety days, between the teste and return of such writ.

Powers of corporation courts not enlarged or abridged by this act.

SECT. 71. Nothing in this act before contained shall be construed to enlarge, alter or abridge any of the powers, jurisdictions, or constitutions of any court of any city, town corporation, or borough, within this Commonwealth, but the same shall remain as if this act had not been made; any thing herein to the contrary, or seeming to the contrary, notwithstanding. *Provided always*, that the respective corporation courts or courts of hustings of any city, town, or borough, shall have juris-

What suits are cognizable therein.

diction only in suits or controversies instituted between the respective inhabitants or citizens of such city, town, or borough, and between one or more of the inhabitants of such city, town or borough, and any person or persons not an inhabitant or inhabitants of this Commonwealth, and in either case only where the contract hath been made, or the cause of action hath accrued, within such city, town or borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the county courts.

Charters of Williamsburg and Norfolk not to be affected by this act.

SECT. 72. Nothing in this act before contained shall be construed to prejudice or in any manner affect the charters of the city of Williamsburg and borough of Norfolk, or either of them.

Magistrates of corporations and common council-men not to act as justices of any county.

Exception.

SECT. 73. No person being a member of any corporation court, court of hustings, or common-councilman of any city, town or borough whatsoever, within this Commonwealth, except common-councilmen of the city of Williamsburg or borough of Norfolk, shall, while a member of such corporation court, court of hustings, or common-council, be capable of acting as a justice of any county court.

Lists of fines imposed by the courts to be sent to the auditor.

SECT. 74. The clerks of the several county and corporation courts, shall annually, on or before the first day of July, transmit to the auditor a list of all fines imposed by their respective courts within the next preceding year; and if no fine shall have been imposed within such period, the clerk shall certify accordingly. Every clerk failing to perform the aforesaid duty, shall forfeit and pay one hundred and fifty dollars, to be recovered by the auditor on motion to the general court, and applied to the use of the Commonwealth, provided ten days previous notice be given in writing of every such motion.

Former acts repealed.

SECT. 75. All and every act, clause and parts of acts, within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this act.

SECT. 76. This act shall commence and be in force from and after the first day of May, one thousand seven hundred and ninety-three.

CHAP. XVI.

An act reducing into one, the several acts concerning the recovery of Debts due to the public, and the sale of Lands for judgments on behalf of the Commonwealth against Public Officers.

(Passed November the 30th, 1792.)

Mode of proceeding against persons misapplying money received from the treasury for public use.

SECT. 1. *BE it enacted by the General Assembly*, That when any person who hath received, or shall receive public money from the treasurer for public use, hath not applied, or shall not apply the said money accordingly, or hath neglected, or shall neglect to account for and repay so much thereof as shall remain unapplied, upon a motion on behalf of the Commonwealth, made to any court of record, notice thereof in writing having been given ten days or more to the delinquent, with a state of the matter alledged against him, either by delivering copies of such notice and allegation to him, or leaving them at the place of his usual abode, the said court may give judgment and award execution against him and his sureties, for so much as a jury, to be impannelled instantly, unless good cause be shown for deferring it, for trial of an issue, if he appear, and make it up, or for enquiry of damages, if he appear not, or appearing, refuse to make up such issue, shall find to be due from him, on any such account as aforesaid, with damages to be assessed by the jury, and costs.

Against persons contracting to supply the army, &c. for breach of contract.

SECT. 2. When the attorney prosecuting on behalf of the Commonwealth, shall commence an action for breach of a contract, which hath been or shall be entered into with government, or with an agent thereof, to supply the army or navy with provision or other articles, at the emanation of the writ, he shall file a declaration, with an assignment of the breaches, which with the writ shall be delivered to the officer, to whom that is directed, and served upon the defendant fifteen days or more before the return day; and on such return day, or on the return day of the subsequent process, in case the preceding be not legally served, if the defendant appear and make up an issue, or if he appear not, or appearing, refuse to make up such issue, a jury shall be impannelled instantly, un-

less good cause be shown for deferring it, to try the issue, or enquire of damages. And in like cases, the agents or contractors of the United States of America, may, by the like remedy, on behalf and in the name of the said states, recover money due to them.

The same remedy extended to the United States.

SECT. 3. *And whereas* divers persons have, and hereafter may enter into contracts with the agents or contractors for victualling and clothing the army and navy, and have or may fail or refuse to comply therewith: *Be it further enacted*, That upon any suit being brought, by any victualler, agent, or contractor, against any person or persons so failing or refusing, the proceedings therein shall be the same, and the plaintiff shall have the same remedy and redress, as is herein before directed in suits which may be brought on behalf of the Commonwealth.

And to public contractors against persons contracting with them.

SECT. 4. It shall and may be lawful for the general court to give judgment with costs, at the motion of the auditor, on ten days previous notice, against any person or persons indebted to the Commonwealth, by bond, or other specialty, whether the same be taken in the name of the governor or treasurer, or any other person acting in a public character, for or on behalf of the Commonwealth, and also to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any person or persons, conditioned for the rendering accounts, or other duties.

Mode of proceeding against persons indebted to the public, by bond, bill, note, &c.

SECT. 5. Where any person or persons have been, are, or may hereafter be indebted to the Commonwealth, either in specie or other articles, collected or otherwise received, for or on behalf of the Commonwealth, and such person or persons, on a settlement with the auditor, have obtained a *quietus;* and where judgment hath been or may be obtained in favor of the Commonwealth, and the amount thereof adjusted and discharged, either before or after the issuing of the execution, whereby a *quietus* may have been or shall hereafter be obtained, by the party or parties, and it shall afterwards appear that an error or mistake had been committed to the prejudice of the Commonwealth in the settlement of such account, judgment, or execution; in all or any of these cases, it shall and may be lawful for the general court to give judgment on motion, with ten days previous notice, for the amount of such error or mistake, without interest or damages thereupon, the same being proved to the satisfaction of the court.

Against a public debtor where an error in his favor is discovered in any adjusted account.

The like remedy to him if he has overpaid.

SECT. 6. And when it shall appear after settlement, that by error or mistake any person shall or may have paid more to the Commonwealth than was really due, such person shall have the same remedy by motion with notice, against the auditor, as is by this act given to the Commonwealth.

Against sheriffs who fail to account for public taxes.

SECT. 7. If any sheriff or collector of the public taxes, shall fail to account for and pay into the public treasury, the taxes by him received, in manner and at the time prescribed by law, every such delinquent sheriff or collector, shall be liable to a judgment against him on motion, to be made by the auditor, or other person appointed for that purpose, at the November general court, or any subsequent court after such failure, for the amount of the taxes due, and five per centum damages, together with an interest of five per centum per annum, upon the whole amount, until paid, for the use of the Commonwealth, and thereupon execution shall issue; provided the party has ten days previous notice of the day on which such motion is to be made.

Regulation respecting petitions from delinquent sheriffs.

SECT. 8. No petition or petitions shall in future be received from any sheriff or collector of the public revenue, or their security or securities, or from any person or persons, directly or indirectly, in their behalf, unless such sheriff or collector shall previous to such application, advertise at the door of his courthouse, on one court day at least, a list of the persons in arrears for taxes, in his county, together with the balances due from such persons respectively, making oath to the same before the court of the county in which he or they respectively reside, which oath shall be committed to record and list filed in the clerk's office; and the said sheriff or collector shall produce an attested copy of such advertisement, together with copies of the list and certificate aforesaid, signed by the clerk of his or their respective county courts.

Lands of public collectors may be sold to discharge the Commonwealth's judgments against them in certain cases; Proviso in favor of securi-

SECT. 9. Lands and tenements shall and may, by virtue of a writ of *fieri facias*, be taken and sold in satisfaction of all judgments which have been obtained after the seventh day of January, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the Commonwealth, against any sheriff, coroner, or other public collector, or against his or their security or securities: *Provided*, that the same shall not extend to any such security or securities, who shall have become

so before the said seventh day of January, one thousand seven hundred and eighty-eight. ties in certain cases.

SECT. 10. Every judgment obtained against any sheriff, coroner, or other public collector, shall bind the property of the lands and tenements, of such public debtor, from the date thereof. And bound from the date of the judgment.

SECT. 11. When the goods and chattels taken in execution to satisfy a judgment of the Commonwealth, by virtue of a *fieri facias*, shall not, in the opinion of the officer levying the same, be sufficient to satisfy the debt with damages and costs, the sheriff or other officer shall, at the same time, give public notice at the churches and meeting-houses, if any there be, and courthouse of his county at the next court day, and shall moreover give notice to the owner, if he be in the county, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction, on the premises, or at such other place in the county, as the owner shall by writing under his hand delivered to the officer, direct. Notice of the time and place of sale, how to be given.

SECT. 12. If the public debtor against whom a judgment hath been entered subsequent to the said seventh day of January, one thousand seven hundred and eighty-eight, or shall be hereafter entered, have several parcels of land which lie in one and the same county, he or his agent may by writing under his hand at any time before the day of sale, require the sheriff or officer to whom a writ of *fieri facias* upon the judgment shall be directed, to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels be in different counties, the clerk shall and may at the like request in writing, direct the *fieri facias* to the sheriff or officer of any county which the party or his agent making oath or solemn affirmation, that he hath lands there, shall particularly mention at any time before the writ shall be delivered to the officer. And if the debt, damages, and costs be made of any other parcel of land, or of lands lying in any other county than that mentioned in such written requisition, the sale of such other parcel of the land in such other county shall be void. Debtor having several parcels of land may direct which shall be sold. Sale how to be made.

SECT. 13. If the owner of the land before or at the day of sale, shall not make payment of the debt due to Where the estate cannot be

sold for three-fourths of its value, the officer may sell upon three month's credit.

the public, the sheriff or officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel if it may be done, in such place and manner as he or his agent, if he think proper, shall direct, for ready money, or other property, as the demand may be, and the costs: But if the estate cannot be sold for three-fourths of its value, in the opinion of the valuers of the county, or in the opinion of such other person as may be by law directed, he shall sell the same upon three months credit, taking bond of the purchasers, with sufficient surety or sureties, for the payment to the chief magistrate of this Commonwealth for the time being.

Proceedings on the bonds taken in pursuance of this act.

SECT. 14. Every bond thus taken, shall mention on what occasion the same was taken, and shall by the sheriff or officer be immediately returned to the clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions, that executions are now awarded on replevy bonds, and shall in like manner be endorsed by the clerk, "that no security is to be taken."

Conveyances to be made by the officer to the purchaser at his costs;

SECT. 15. In all sales of lands by virtue of an execution, the sheriff or other officer shall convey the same to the purchaser at his costs, by deed in writing, sealed, and recorded as the laws direct for other conveyances of land; which deed shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser, all the estate and interest which the debtor had, and might lawfully part with in the lands. *Provided nevertheless*, that if any sheriff or other officer who may have made sale of lands by virtue of any execution to him directed, on the part of the Commonwealth, should die or remove out of the state, before deeds made in conformity to such sale or sales, then it shall and may be lawful for the next succeeding sheriff or other officer, to convey the same to the purchaser or purchasers thereof, in as full and ample manner, as his predecessor in office might or should have done.

Proceedings against the securities of public collectors.

SECT. 16. If the lands and tenements, goods and chattels, of any sheriff, coroner, or other public collector, are insufficient to satisfy the debt, damages, and costs due to the public, judgment shall be obtained against his security or securities, in the same summary way, that judg-

ment may by law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages, and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal, may be taken and sold agreeable to this act.

Clerks to insert lands and tenements in executions against public collectors.

SECT. 17. In every writ of *fieri facias* upon judgments which have been obtained subsequent to the said seventh day of January, one thousand seven hundred and eighty-eight, or hereafter to be obtained by the Commonwealth, against any sheriff, coroner, or other public collector, or the securities of them, or either of them, after the words, "We command you that of the," the clerk from whose office such writ shall issue, shall insert the words "lands and tenements," and conform the subsequent part of such writ thereto.

Executive may direct property of public collectors under executions heretofore served to be removed to an adjacent county.

SECT. 18. Where the property of any sheriff, coroner, or other public collector, or their securities, has been taken in execution to satisfy a judgment obtained by the Commonwealth, and the same was not sold for want of buyers, and return thereon hath been made to that effect; or where the property of any sheriff, coroner, or other public collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas* to satisfy a judgment obtained by the Commonwealth, and could not be sold for want of buyers, and return hath been made to that effect; in either of the above cases, it shall and may be lawful for the executive, and they are hereby authorised and required, to direct the officer, to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent county, as the executive may direct, and there to be sold for money or government securities, on such terms, and in such proportions as they shall judge expedient: *Provided*, that if such property will not sell for three-fourths of its value, in the judgment of the valuers of the county, or in the judgment of such other person as may be by law directed, where the sale shall be made, the sheriff or other officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before

Proviso

directed in cases of bonds taken on the sale of lands and tenements sold by virtue of this act.

Executions against sheriffs to be served by the high sheriffs.

SECT. 19. In every case where any writ of *fieri facias* or *venditioni exponas* issues against the estate of a sheriff on behalf of the Commonwealth, if by law the same ought to be directed to a sheriff, such writ or writs shall be executed by the high sheriff.

Executive may direct the property of public collectors under execution to be removed to an adjacent county;

SECT. 20. In like manner where any writ of *fieri facias* or *venditioni exponas* shall hereafter issue at the instance of the Commonwealth, against the estate of any sheriff, coroner, or other public collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the executive shall direct the property to be removed and sold as above directed, in cases of such sheriffs, coroners, public collector, and securities, whose property has not been sold for want of buyers.

To be informed when their interposition is necessary;

SECT. 21. It shall be the duty of the auditor forthwith to acquaint the executive when their interposition is, or hereafter may become necessary, to the carrying this act into effect.

And if process be fraudulently served;

SECT. 22. The auditor, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the executive, whose duty it shall be to direct the attorney of the Commonwealth for such district, county or corporation, to file an information thereupon, in which like proceedings shall be had as in other cases of information; and if it shall appear that such sale was fraudulently made, the property of any thing thus fraudulently sold, shall not be changed, but remain subject to the demand of the Commonwealth; and the officer who executed such process, if he be concerned in such fraud, shall ever after be rendered incapable of being appointed to any office of honor or profit.

Fraudulent sales under such process to be void;

And the officer disqualified for any office.

Summary remedy against collectors who have failed to give bond and security.

SECT. 23. *And whereas* sheriffs and other public collectors in some instances have proceeded to collect the public revenue without having entered into bond with security for the faithful performance of that duty, which cannot be recovered from such collectors, except by the tedious process of law: For remedy thereof, *Be it enacted*, That every sheriff, or other public collector, who may have attempted the collection of any of the different species of taxes in any county or corporation in this state, shall be liable to a judgment and execution for the same sum, and in the same summary way, as if such sheriff or

other public collector had actually given security agreeable to law.

Expence attending removal of collector's property under execution, how to be defrayed.

SECT. 24. In all executions founded upon judgments, which were obtained prior to the seventh day of January, one thousand seven hundred and eighty-eight, where it may be necessary to remove any property by virtue of this act, the extra expences attending such process shall be discharged by the Commonwealth; but in all executions upon judgments obtained after the day last mentioned, or hereafter to be obtained, such additional expences shall be paid by the owner of the property, and taxed in the costs of the prosecution.

Penalty on officers failing to serve or return executions.

SECT. 25. All sheriffs, coroners, or other persons authorised to levy executions of any kind on behalf of the Commonwealth, and failing so to do according to law, or withholding any such execution for any longer time than one month after the return day, shall forfeit and pay to the Commonwealth, at the rate of fifteen per centum per annum, on the amount of such execution, to be computed from the return day thereof, until such execution be actually returned.

For a false return.

SECT. 26. And any officer as aforesaid, who shall make a false return on any such execution, shall forfeit and pay twenty-five per centum on the amount of such execution.

For failing to pay money received under execution.

SECT. 27. And in case any sheriff, coroner, or other officer, shall levy on behalf of the Commonwealth, any execution, and shall return the same as satisfied, paid or discharged, or in any other words, form or manner, which shall entitle the debtor to a credit therefor, either wholly or in part, and shall fail to pay the amount of such credit within one month after the return day of such execution, or other process, then such sheriff or other officer, so failing, shall forfeit and pay to the Commonwealth, double the damages and double the interest to which the debtor, against whom the said execution may have issued, was subject, to commence and accrue on the return day of such execution, and to continue until payment be made into the treasury; and in all such cases where no damages are expressed, but interest only is required by the said execution from the debtor, the sheriff or other officer failing to pay to the treasury within one month after the return day of such execution, shall forfeit and pay at and after the rate of twenty per centum per annum on the amount.

When executions may be directed to persons other than the sheriffs.

SECT. 28. Upon all executions of *fieri facias* already issued, or hereafter to be issued, and which shall have been, or shall be levied, but not discharged, whereby subsequent process is necessary to be issued, every such subsequent process, may at the discretion of the auditor be directed to such person specially by name as was high sheriff at the time of levying the former execution, who shall proceed in the execution of such subsequent process until the debt be fully paid, notwithstanding such person's time as sheriff of the county be expired.

Penalty on a deputy sheriff failing to add the name of his principal to a return.

SECT. 29. And all and every deputy sheriff levying any execution for, or on behalf of the Commonwealth, shall, on failing to sign in addition to his own name, the name of the high sheriff under whom he acts, be subject to the same fine as is hereby inflicted for withholding an execution, to continue until such return be amended by the addition of the high sheriff's name, or the amount of such execution be actually paid; and in case of inability in any deputy sheriff to pay such fine, the same may be recovered of the high sheriff, which he may hereafter recover of such deputy by motion in the court of his county, on giving ten days previous notice to the deputy so failing

When the performance of duty shall not bar the recovery of a fine.

SECT. 30. No compliance with such duties as are by this act prescribed after the respective periods assigned for performance, and notice given of an intended motion as herein after is mentioned, shall bar a recovery of the fines and forfeitures.

Method of proceeding where the property of a public debtor is under any lien or incumbrance.

SECT. 31. In all cases of *fieri facias* not levied by reason that the effects in a public debtor's possession cannot be taken in consequence of any previous *bona fide* execution, mortgage, deed of trust, or any other conveyance or incumbrance whatsoever, the sheriff holding such execution shall set forth in his return fully and explicitly the nature of the conveyance or incumbrance under which a claim is set up, and in what court the same be recorded, and if by virtue of executions, the names of the persons at whose instance such executions issued, the amount of each, and from what court they were issued, in order that the auditor may institute such proceedings as the attorney-general may direct against all persons concerned in order to have their claims or demands fully ascertained; and all courts wherein such proceedings shall or may be instituted, are hereby authorised to give the preference in hearing all such cases before others of any kind

or nature soever, and to quicken the same by such rules as to them shall seem expedient.

Penalty for interrupting the sale of any public debtor's estate.

SECT. 32. If any person shall attempt to stop, interrupt or injure the sale of the estate of any public debtor taken by virtue of an execution, by any fraudulent execution, conveyance, or incumbrance whatsoever, he shall forfeit to the Commonwealth the sum of three hundred dollars.

Fines and forfeitures, how to be recovered;

SECT. 33. All fines and forfeitures inflicted by this act, shall be recovered by the auditor on behalf of the Commonwealth, by motion in the general court with costs, on giving ten days previous notice. *Provided always*, that upon a prosecution instituted for any fine or forfeiture inflicted by this act, a jury shall be impannelled to try the facts, if it shall be desired by the party prosecuted.

Remission of them, how to be obtained.

SECT. 34. The defendant or parties against whom judgment may have been obtained for any such fine or forfeiture, may, on application to the governor and council, obtain a remission either of the whole or part, as to the governor, with advice of council, may seem reasonable and proper.

Former acts repealed.

SECT. 35. All and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act, shall in any wise extend to or affect any duty, fine, forfeiture, penalty, or remedy of, for, or concerning any matter or thing before the commencement of this act.

SECT. 36. This act shall commence and be in force from and after the passing thereof.

CHAP. XVII.

An act concerning Coin, and for other purposes.

(Passed December the 19th, 1792.)

What gold and silver

SECT. 1. *BE it enacted by the General Assembly*, That from and after the first day of January, in the year of our

coin shall be current,

Lord one thousand seven hundred and ninety-three, the gold and silver coin herein after mentioned shall be current in this Commonwealth, and shall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at

until regulated by congres.

the rates following, until it shall be otherwise regulated and directed by the Congress of the United States; that

Rates.

is to say: The gold coin of France, Spain, Portugal, and England, at the rate of five shillings and four-pence the pennyweight, or of a dollar for twenty-seven grains; the gold coin of Germany at the rate of four shillings and ten-pence the pennyweight, or a dollar for twenty-nine grains and eight-tenths of a grain; Spanish milled dollars at the rate of six shillings, or one hundred cents; and other silver coin uncut, in like proportion. Cut silver coin shall be receivable at the treasury of this Commonwealth for all public dues and taxes, at the rate of six shillings and eight-pence, or one dollar and eleven cents, the ounce.

The public accounts to be kept in dollars and parts of dollars.

Sect. 2. *And be it further enacted*, That the money of account of the Commonwealth, shall be expressed in dollars or units, dismes or tenths, cents or hundredths, and milies or thousandths; a disme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thousandth part of a dollar; and that all accounts in the public offices shall be kept and had in conformity to this regulation.

The treasurer to receive the interest on the deficiency of loan of the state debt.

Sect. 3. The treasurer of the Commonwealth is authorised and directed to receive from the commissioner of the loan-office of the United States in this state, the interest which hath or shall become due on the deficiency of the sum allowed to be subscribed of the debt of this Commonwealth, agreeably to an act of congress, intituled, "An act making provision for the debt of the United States."

Repealing clause.

Sect. 4. All and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Sect. 5. This act shall commence in force, from and after the first day of January, in the year of our Lord, one thousand seven hundred and ninety-three.

CHAP. XVIII.

An act for reducing into one, the several acts of Assembly, for the inspection of Tobacco.

(Passed November the 29th, 1792.)

No tobacco to be exported, but in casks, and inspected.

SECT. 1. *BE it enacted by the General Assembly*, That no tobacco shall be shipped or exported from this Commonwealth, unless the same shall be packed in hogsheads or casks, taken from some public warehouse herein-after mentioned, and received and inspected according to the directions of this act.

Warehouses established.

SECT. 2. Public warehouses for the reception of tobacco pursuant to this act, shall be kept at the several places herein-after mentioned, that is to say: In the county of Accomack, at Pitt's landing, upon Pocomoke, at Guildford, and at Pungoteague, under one inspection; in the county of Caroline, at Roy's; in the county of Dinwiddie, at Bolling's point, Bollingbrooke, and Cedar point; in the county of Essex, at Hobb's Hole, at Bowler's, and at Layton's; in the county of Fairfax, at Colchester, Alexandria, and the Falls of Patowmac; in the county of Gloucester, at Poropotank, and at Deacon's neck; in the county of Hanover, at Page's, Crutchfield's, and Meriwether's; in the county of Chesterfield, at Rocky ridge, Osborne's, at John Bolling's, on the lands of Jacob Rubsamen, in the town of Manchester, to be called and known by the name of Manchester, on the lots of Alexander and Peterfield Trent, in the town of Manchester, distinguished in the plan thereof by the numbers two hundred and nine, two hundred and ten, two hundred and twenty-one, and two hundred and twenty-two, to be called and known by the name of Trent's warehouse, and on those of Edward Johnson, deceased, in the said town, to be called and known by the name of Johnson's warehouse; in the county of Henrico, at Byrd's, Shockœ, and Rockett's; in the county of Isle of Wight, at Smithfield, and at Fulgham's, under one inspection; in the county of King and Queen, at Shepherd's, at Mantapike, and at Frazer's, in King William, under one inspection, and at Todd's in King and Queen, and at Aylett's in King

William, under one inspection; in the county of King George, at Boyd's-Hole, and Machodack, under one inspection, and at Gibson's, to be called and known by the name of Gibson's warehouse; in the county of Lancaster, at Davis's and Lowry's, under one inspection, and at Deep Creek and Glascock's, under one inspection; in the county of Northumberland, at North and South Wicomico, under one inspection, at Coan's, in the said county, and at Indian Creek in the said county, and at Dymer's in the county of Lancaster, under one inspection; in the county of Middlesex, at Urbanna, and at the place where Kemp's warehouse formerly stood up Pianketank river; in the county of Nansemond, at Milner's and Suffolk; in the county of Northampton, at Cherrystones and Naswaddox, under one inspection; in the county of New-Kent, at Littlepage's and the Brick house; in the county of Prince George, at Hood's, Boyd's, Davis's, and Blandford; in the county of Prince William, at Quantico, Dumfries, a place called Rock's, on Quantico creek, to be called and known by the name of M'Rae's warehouse, and in the town of Newport, on the lots of Cuthbert Bullitt, to be called and known by the name of Bullitt's warehouse; in the county of Richmond, at Cat point, and Totuskee; in the county of Surry, at Gray's creek, and Low point; in the county of Stafford, at Falmouth, at Acquia, and at Dixon's; in the county of Spotsylvania, at Fredericksburg, and at Royston's; at Yeocomico and Kinsale, under one inspection; in the county of Westmoreland, at Nomony, at Leeds, and Maddox, under one inspection; at the College landing in the county of James City, and at York Town in the county of York; at Hampton in the county of Elizabeth City; in the county of Botetourt, on the lands of William Crow, at Crow's ferry, to be called and known by the name of Crow's warehouse; in the county of Hampshire, at the confluence of the north and south branches of the river Patowmac, on the lands of Thomas Cresap, to be called and known by the name of Cresap's warehouse; and in the town of Romney, to be called and known by the name of Romney warehouse; in the county of Campbell, at Lynch's ferry, to be called and known by the name of Lynch's warehouse; in the county of Fluvanna, at the Point of Fork, on the lands of David Ross, to be called and known by the name of Rivanna warehouse; in the county of Amherst, on the north side of James river, be-

low Swan's creek, on the lands of Nicholas Cabell, to be called and known by the name of Swan creek warehouse; in the county of Berkeley, on the lands of Abraham Shepherd, near the town of Mecklenburg, to be called and known by the name of Mecklenburg warehouse; on the lands of William Barksdale, in the town of Petersburg, to be called and known by the name of Barksdale's warehouse; on the lands of Robert Bolling, junior, in the said town, adjoining his present dwelling house, to be called and known by the name of West-hill warehouse; on the lands of Alexander G. Straghan, in high street, in the said town, to be called and known by the name of High street warehouse; on the lots of Thomas Shore and George Wilson, likewise in the said town, to be called and known by the name of Westbrook warehouse; and on the lands of Elizabeth Spencer, Ann Swann Saunders, and Daniel Wooldridge in the said town, to be called and known by the name of Petersburg warehouse; in the county of Albemarle, on the lands of Bennett Henderson, at the place called the Shallows, on the Rivanna river, to be called and known by the name of Henderson's warehouse; and on the lands of Wilson Cary Nicholas, at the mouth of Ballenger's Creek, in the said county, to be called and known by the name of Nicholas's warehouse; in the county of Monongalia, at Morgan-Town, to be called and known by the name of Morgan-Town warehouse; in the county of Loudon, at the great falls of the Patowmac, to be called and known by the name of the Great-Falls warehouse; in the county of Cumberland, on the lands of John Woodson, at Carter's ferry, to be called and known by the name of Woodson's warehouse; in the county of Norfolk, on the lands of Thomas Veal, in the town of Portsmouth, to be called and known by the name of Portsmouth warehouse; in the county of Fairfax, on the lands of William Thornton Alexander, in the town of Alexandria, to be called and known by the name of Thornton's; in the county Amherst, on the lands of John Lynch, at his ferry, to be called and known by the name of Amherst warehouse; in the county of Halifax, on the lands of Richard Booker, at Booker's ferry, on the Staunton River, to be called and known by the name of Booker's warehouse; in the county of Buckingham, on the lands of John Horseley, at the mouth of Bent Creek, to be called and known by the name of Horseley's warehouse.

Rents of warehouses.

SECT. 3. The rents of the several warehouses hereby established, shall be, and they are hereby established at the following rates: At Pitt's and Guildford's, thirty-three dollars and thirty-three cents; at Pungoteague, twenty-six dollars and sixty-seven cents; at Cherrystones and Naswaddox, twenty-six dollars and sixty-seven cents; at Hampton, thirty-three dollars and thirty-three cents; at the College Landing, thirty-three dollars and thirty-three cents; and at all the other warehouses, there shall be allowed and paid for the rents for the same, twenty-five cents for every hogshead of tobacco that already has been or shall be received, inspected and delivered out of such warehouses respectively, except as herein-after excepted. And there shall be paid to the proprietors of each warehouse, for all tobacco lying therein more than twelve months at the rate of five cents per month for each hogshead, to be paid by the shipper thereof, at the time of shipping the same.

Proprietors of old warehouses to let them to the inspectors.

SECT. 4. Where the warehouses are already built at any of the places herein before mentioned, and appointed for keeping the same, and are now made use of for public warehouses, the proprietors and owners of such warehouses shall be, and they are hereby obliged to let the same to the inspectors during the continuance of this act, at the rent hereby established for such warehouses respectively, and if any proprietor or owner shall refuse so to do, he shall forfeit and pay fifteen hundred dollars; and

County courts to direct the number and kind of new warehouses.

where warehouses are not already built at any of the places aforesaid, or where any new warehouses shall be hereafter appointed to be kept at any other place, it shall be lawful for the justices of the court of that county wherein such place is or shall be, and they are hereby required, at the next court to be held for their county after such new warehouse shall be so appointed, to order and direct so many strong, close, and substantial houses, secured with strong doors, hung on iron hinges, and with strong locks or bolts, as will contain sufficient room for two thirds of the number of hogsheads, which in their opinion will be annually brought to the same, and one brick square or funnel six feet high at least, and four feet diameter, with a proper arch at the bottom of the same, for burning tobacco refused and picked, at such warehouses, and such other conveniencies as shall be necessary; and shall cause

And take bond with security of the proprietor if

the owner or proprietor of the land where such warehouses are appointed to be kept, and if such owner or

proprietor be under age, *feme covert*, or out of the country, then the guardian, husband or known attorney, or agent (as the case may be) of such owner or proprietor, to be summoned to appear before them at the next succeeding county court after such summons shall issue, there to declare whether they will undertake to erect and build such houses, funnel, and other conveniences, and let the same to the inspectors appointed to attend at such warehouses at the rent settled by this act, or which shall be hereafter settled for the same; and in case such owner, guardian, husband, known attorney or agent, will undertake the same, then the said court shall, and they are hereby required, to take bond with sufficient security, in a reasonable penalty, payable to the governor and his successors, to the use of the Commonwealth, with condition for the due performance of such undertaking. And if such owner, guardian, husband, known attorney or agent, shall refuse to undertake the same, or give such bond as aforesaid, then it shall be lawful for the said justices, and they are hereby required, to value an acre of the said land, and to pay or tender to the proprietor, his or her guardian, husband, known attorney or agent, the value thereof, which shall be repaid to the said justices by the public, and from thenceforth the justices of the county for the time being, shall be seized in fee of the said land in trust, and for the use of the public, during the time the said place shall be made use of for a public warehouse; and the said justices shall agree with some person or persons to erect and build thereon, such houses, funnels, and other conveniences as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful interest. And where the justices of any county court, or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices, or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of

he chooses to build and let them.

If he refuses, the land to be paid for and the warehouses to be built at the expense of the public, and the rents to be paid to the treasurer.

Where ware-

houses are discontinued, the land to revert to the former proprietor, he returning the price, &c.

the warehouses which are or shall be built by the public, the justices, or other persons shall hereafter be discontinued, the proprietor of the land returning the price paid for the same, with lawful interest, shall be thenceforth seized of his former estate.

Inspectors annually to lay before the court an account of tobacco inspected, and condition of the houses.

SECT. 5. The inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of September yearly, or at the next succeeding court, produce and render into court, an exact account under their hands, of the number of hogsheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built, at any of the said inspections, are properly secured, and contain sufficient room for two-thirds of the number of hogsheads mentioned in such account, to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses, shall within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also, before the first day of April, in the ensuing year, erect, build, and completely finish, such and so many other strong, close and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two-thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governor for the time being, and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his

Court may order houses to be repaired or secured, and new houses built if necessary,

by the proprietor or public.

hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proporiton shall be settled by the court, and by them certified to the treasurer.

Penalty on county courts for neglect.

SECT. 6. If any county court shall fail or refuse to do their duty in directing such houses, funnels, and other necessary conveniencies, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay one hundred dollars, to be recovered in the district court, with costs, by action of debt, or information, against the justices jointly.

Houses and other conveniencies, not to be taken from proprietors.

SECT. 7. *Provided always*, That nothing herein contained shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conveniencies of any proprietors of lands, for the purposes aforesaid, nor to the said inspectors to keep any horses, cattle or hogs, at any public warehouses, except their riding horses, upon the land appointed for such warehouses; and if any swine belonging to the said inspectors, or any of them shall be found at large upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands, to kill or cause to be killed or destroyed, all such swine.

Inspectors not to keep any horses, cattle or hogs on the land.

How proprietor may be restored to his former estate.

SECT. 8. *Provided also*, That where any houses have been or shall be built by the justices or other persons, as aforesaid, and the first proprietor of the land shall desire to have the same again, such proprietor, upon payment of so much money as shall be sufficient to re-imburse the said justices or other person the principal money expended for the purchase of the land and the building such warehouses, with lawful interest, deducting the rents received by the said justices or other person, shall be restored to his former estate in the land whereon such warehouses are built, and shall receive the rents aforesaid growing due for such warehouses: *Provided also*, that if any proprietor so as aforesaid restored to his estate, shall neglect or refuse to build and repair such houses as the court shall think necessary, the justices shall again be

But if he again fails to build or repair to be revested in the public.

seized of the fee simple estate in such land during the time such place shall be made use of for a public warehouse, and such proprietor shall not have any benefit of the rents that shall hereafter become due.

Waste or destruction of warehouses, how to be punished.

SECT. 9. On complaint being made by the owner or owners of any of the warehouses aforesaid, to any justice of the peace in the county where such warehouse shall lie, against any person or persons, for breaking tearing, or committing any waste or destruction of, or in such warehouse or warehouses, it shall be lawful for such justice, and he is hereby empowered and required to give judgment and award execution against the body or estate of such offender if found guilty for all damages occasioned by such breaking, tearing, or waste, or destruction, provided such damages do not exceed the sum of five dollars in his opinion; and if such damages shall exceed that sum, then it shall be lawful for such owner or owners to commence and prosecute his or their action at law, against any such offender in any court of record within this state, in which the plaintiff shall recover costs, although the damage shall be under seven dollars.

Scales and weights to be provided,

SECT. 10. There shall be kept at every one of the said warehouses herein before appointed, and at all others hereafter to be appointed, a good and sufficient pair of scales with weights to weigh fifteen hundred pounds at the least, and a set of small weights, the same that are or ought to be provided for the standard weights of each county; and where such scales and weights are not already provided, or now are or shall hereafter be worn out, or become unfit for use, the justices of the respective county courts wherein any of the said warehouses are or shall be, are hereby directed and required to provide the same, with all convenient speed; and the treasurer for the time being is hereby empowered and required to pay the purchase money out of the public money in his hands arising from the inspection of tobacco, and moreover the

and tried and repaired twice a year.

said justices are hereby required and directed, twice in every year at least, to appoint one or more of their number to view the said scales, and examine and try the weights at the several warehouses by the standard weights of the county; and if the said scales and weights shall want repairing, or the weights be found deficient, or differing from the lawful standard, the said justices shall cause the same to be repaired and mended, and the weights made conformable to the standard; and if the

justice or justices so appointed, shall refuse or neglect to do the same, the justice or justices so refusing, shall forfeit and pay the sum of one hundred and fifty dollars; and the charge of repairing and mending the said scales and weights, and also for removing the standard to the several warehouses for trying the same, shall be paid by the inspectors respectively, and be again allowed to them in their accounts with the treasurer.

Tobacco to be viewed by the inspectors.

Manner of appointing inspectors.

Sect. II. All tobacco which shall be brought to any of the public warehouses shall be viewed, inspected and examined by two persons to be thereunto appointed, who shall be called inspectors, which said inspectors shall be appointed in the following manner, that is to say: The courts of the several counties within this state, wherein any of the public warehouses appointed by this act are established, shall and they are hereby required, once in every year and no oftener, at their respective county courts held in the months of August or September, to nominate and recommend to the governor for the time being, for so many offices of inspection as are or shall be in their respective counties, four fit and able persons reputed to be skilful in tobacco, for the execution of the office of inspectors; and where two warehouses under one and the same inspection happen to lie in different counties, in that case the court of each county shall nominate and recommend two for such inspection, which nomination the said courts shall cause to be entered upon record, and the clerks of the said courts shall, and they are hereby required forthwith to transmit a certificate of the same to the clerk of the council; and out of the said four persons nominated and recommended for each inspection, the governor with advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in default of such nomination or recommendation by the county courts as aforesaid, the governor with the like advice and consent shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the governor, shall and may appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recom-

mendation, will not accept the said office, in that case, the governor, with the advice and consent of the council, may appoint any other person they shall think fit; and

Additional inspectors to be appointed:

besides the two inspectors appointed as aforesaid, the governor, for the time being, with the advice of the council, shall appoint one of the persons recommended with such inspectors to be additional inspector at the

When to act.

warehouse for which he shall be recommended; which additional inspector shall officiate as such only, in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise be absent from his duty; or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

No inspector to take a reward for resigning.

Penalty on giver and receiver.

SECT. 12. If any inspector shall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of six hundred dollars, to be recovered with costs by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be forever disabled from holding the office of inspector within this state.

No justice of the peace recommended as an inspector to vote in recommendation.

SECT. 13 *Provided always*, That no justice of the peace recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be

Inspector in office recommended to continue without new commission, but shall annually renew his bond for the due discharge of his duty.

again recommended the succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year, without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid. *Provided nevertheless*, that each inspector shall annually renew his bond, and give security for the faithful discharge of his duty.

SECT. 14. Every person appointed or to be appointed

inspector by virtue of this act, shall before he enters upon the execution of the said office, enter into bond with good security in the penalty of four thousand dollars, payable to the governor for the time being and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer under the penalty of three hundred dollars, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of three hundred dollars; and every such inspector shall also take the following oath, at the time he gives bond, that is to say: "You shall swear that you will diligently and "carefully view and examine all tobacco brought to the "public warehouse or warehouses where you are appointed inspector, and that not separately and apart from "your fellow, but in his presence; and that you will not "receive or pass any tobacco that is not in your judgment "sound, well conditioned, merchantable, and clear of "trash, nor receive, pass or stamp any tobacco hogsheads "or casks of tobacco contrary to the true intent and "meaning of this act, nor refuse any tobacco that in your "judgment is sound, well conditioned, merchantable and "clear of trash, and that you will not change, alter, or "give out any tobacco other than such hogsheads or "casks, for which the receipt to be taken, was given, but "that you will in all things well and faithfully discharge "your duty in the office of inspector, according to the "best of your skill and judgment, and according to the "directions of this act, without fear, favor, affection, ma-"lice or partiality: So help you GOD." Which oath shall be taken before the governor of this state for the time being, before the district court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be appointed inspector shall stand; but before any inspector shall enter upon the execution of his office, he shall produce a certificate, if sworn before the governor or district court, (as the case may be) of his having taken such oath, which certificate shall be lodged with the clerk of the county where such inspector shall be; and if any person shall presume to execute the office of inspector before he shall have given such bond and taken such oath as aforesaid, he shall forfeit and pay two thousand dollars.

Inspectors to give bond with security and take an oath.

The oath.

Penalty for acting without qualifying.

Time inspectors are to attend.

SECT. 15. All inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of October, to the tenth day of August yearly, except Sundays, and the holy-days observed at Christmas, Easter, and Whitsuntide, or when hindered by sickness; and afterwards they or one of them shall constantly attend at the same, except on Sundays, to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of August shall be delivered: But no inspector shall be obliged to view any tobacco between the said tenth day of August, and the first day of October, except such as remained in the warehouse on the said tenth day of August; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved, one dollar for every neglect, or shall be liable to an action upon the case at the suit of the party grieved, to recover all such damages as he or they shall have sustained by occasion of any such neglect, together with his or their full costs, at the election of such party.

Penalty for not attending.

Tobacco to be entered as brought in and viewed in due turn.

SECT. 16. And that all persons having tobacco at the public warehouses, may have equal justice, the inspectors shall enter in a book to be kept for that purpose, the marks and owners names of all tobacco brought to their respective warehouses for inspection as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in such book, without favor or partiality; and shall uncase and break every hogshead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hogshead or cask shall be stamped in the presence of the said inspectors, or one of them with the name of the warehouse at which inspected, and also the tare of the hogshead or cask, and quantity of nett tobacco therein contained: and the inspectors at such warehouses shall issue a receipt for each hogshead of tobacco they shall pass, if required by the owner; which receipt shall be in the form following, to wit:

Each hogshead to be uncased and viewed, and if found good, stamped and receipt given.

——— River, ——— Warehouse,

the ——— day of ———, 17—,

Sweet scented. Oronoko.

Leaf. Stemmed. Leaf.

Marks. No. Gross. Tare. Nett. Gross. Tare. Nett. Gross. Tare. Nett.

Received of ——, —— hogsheads of tobacco, marks, numbers, weights, and species, as per margin; to be delivered by us to the said ——, or his order, for exportation, when demanded. Witness our hands.

Form of the receipt which is to be printed for crop tobacco.

And no inspector or inspectors, shall under any pretence whatsoever, issue a receipt for any tobacco other than such as shall be printed, in which the date shall be inserted at full length. And if any inspector or inspectors, shall presume to issue a receipt in any other manner than is hereby expressed, he or they, for every such offence, shall forfeit and pay the sum of three hundred dollars; to be recovered with costs, by any person who may sue for the same, in any court of record within this state: Which receipts as aforesaid, shall be furnished by the public printer, and at the public expense: But if the said two inspectors, shall at any time disagree concerning the quality of any tobacco brought for their inspection to any warehouse under their charge, they shall as soon as conveniently may be, call in the additional inspector appointed to attend such warehouse, who shall determine and pass or reject such tobacco; and if he shall pass the same, his name shall be entered in a book kept by the inspectors, opposite the mark, number, and weight of the hogshead by him passed, together with the name of the inspector at such warehouse who shall officiate with him. And the inspectors at each of the warehouses established by this act, shall constantly keep so many able hands at their respective warehouses as the courts of the several counties wherein they lie, shall from time to time judge necessary, and direct, for the purpose of taking care of all tobacco brought to such warehouse, and stowing it away after the same shall be inspected and stamped. And no inspector shall by himself, his servant, or any other person, either directly or indirectly, be concerned in picking any refused tobacco, unless it be his own property, on any pretence whatsoever, under the penalty of being forever thereafter disabled from holding the office of inspector.

Where the inspectors disagree concerning the quality of tobacco.

What hands the inspectors shall keep.

Inspectors of servants not to be concerned in picking tobacco.

Owner may pick refused tobacco, but if he refuses the pickers shall do it.

SECT. 17. When any tobacco shall be refused by the inspectors, the proprietor thereof shall be at liberty to separate the good from the bad, but if he refuses or neglects so to do within two months of such refusal, the inspectors shall direct one or more of the pickers attending the warehouse, to pick and separate such refused tobacco, and give the owner credit for so much thereof as shall be found merchantable, after paying the pickers one twelfth part of the quantity saved; and the inspectors shall cause the tobacco which shall by them be judged unfit to pass, to be burned in the brick funnel, erected or to be erected at such warehouse, under the penalty of seven dollars for every failure, to the informer; recoverable with costs, before any justice of the county wherein such warehouse shall be. *Provided always*, that any picker refusing to pick and separate refused tobacco, when directed by an inspector, shall forfeit and pay five dollars, to the use of the owner of such tobacco; recoverable with costs, before any justice of the county or corporation.

Penalty on picker refusing to pick tobacco.

Pickers, how to be appointed.

SECT. 18. The courts of the several counties wherein any of the public warehouses appointed by this act are established, shall, and they are hereby required to nominate and appoint from time to time, such and so many persons as to them shall seem necessary, who are willing to undertake the same, to attend the several warehouses within this state, to turn up, sort, separate and pick such tobacco as shall be refused by the inspectors.

Their oath.

And every person so appointed a picker, shall make oath before the court at the time of his appointment, or at the next succeeding court, that he will carefully and diligently without fraud or embezzlement, sort and separate all such tobacco, as shall be refused by the inspectors, and the owner or proprietor thereof, or the inspectors,

Allowance.

shall employ him to pick; and every picker of tobacco shall be allowed to demand and receive from the respective proprietors, twenty-one cents per hogshead for opening, and one twelfth part of all the tobacco saved out of any refused hogshead by him picked, for his services in opening, sorting and picking the same, and no more.

Duty.

And no picker of tobacco shall keep or employ any negro or mulatto slave at any public warehouse, on any pretence whatever; nor shall any picker presume to hinder any person who may choose to open their own tobacco, or to pick what may be refused by the inspectors,

from the free use of the picking-house and prize, for the conveniency of picking or prizing the same. And if any picker shall misbehave himself in his said office, it shall and may be lawful for the court of the county where such picker shall be appointed, on complaint and motion to them made, to remove such picker from his said office, and to appoint another person to act in his room, if to them it shall seem necessary; and every picker so removed, shall for ever after be rendered incapable of serving as picker at any public warehouse; *Provided*, such picker hath ten days previous notice of such motion; and any person who shall be aggrieved by any such misbehaviour in a picker, may make complaint thereof to any justice of the peace, who is hereby empowered and directed to take depositions therein, provided such picker have notice thereof, and to transmit the same to the next court to be held for the county, where the offence shall be committed, to be there given in evidence on the examination into such misbehaviour. And if any person not being appointed and sworn as aforesaid, shall presume to undertake the opening, sorting, picking, or separating any such tobacco for hire or reward, every person so offending shall forfeit and pay four dollars for every such offence; to be recovered by the informer, to his own use, before any justice of the peace. *Provided*, that any proprietor of tobacco, who may choose to open, pick and prize his own tobacco, may employ his own servants or slaves, or any other person or persons, other than the hands kept by the inspectors, to assist him in opening, picking or prizing the same, and the person or persons so employed, shall not incur or be subject to the last mentioned or any other penalty or forfeiture for so doing; and the inspectors shall issue receipts for all tobacco saved by picking, to the proprietors only of such tobacco, and not to the pickers of the same. And the inspectors shall not suffer or permit any picker to prize up any tobacco that he shall have saved by picking for his own use. And if any tobacco picked in any hogshead or cask by an overseer, or the hands under his care, shall be burnt by the inspectors, by reason of its being bad, unsound, or not in good condition, the overseer who had the care of making and packing the same, shall be at the loss of the tobacco so burnt, and make satisfaction for the same out of his share of the crop, or otherwise; and the

How punished for misbehaviour.

Penalty for picking without being so appointed, except by the proprietor, his hands or others.

Pickers not to prize up their tobacco saved by picking.

Overseers liable for tobacco refused or burnt.

inspectors shall be obliged to keep an account of all tobacco so burnt.

Penalty on inspector for being concerned with a picker as a partner or receiving any thing from him.

SECT. 19. If any inspector of tobacco shall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inspector herein offending, on conviction, before any court of record, shall forfeit and pay two thousand dollars to the prosecutor, to be recovered by action of debt with costs; and shall moreover be rendered incapable of serving as an inspector. Every picker who shall be concerned as above with an inspector, or who shall demand, take or receive any greater fee or reward for his services, other than by law allowed, shall forfeit and pay, on conviction, to the person prosecuting, three hundred dollars, to be recovered in like manner, and shall for ever after be incapable of acting in any character at a public warehouse.

On a picker for the same, or for receiving more than the legal fee.

SECT. 20. Where any tobacco shall be brought to any of the said warehouses for the discharge of any public or private debt or contract, the said inspectors or one of them, after they have viewed, examined and weighed the said tobacco, according to the directions of this act, shall be obliged to deliver to the person bringing the same, as many receipts under the hands of the said inspectors as shall be required for the full quantity of tobacco received by them, in which shall be expressed whether the tobacco, so received, be sweet scented or Oronoko, stemmed or leaf; which receipt shall be in the form following, to wit:

Form of transfer receipts.

RIVER, No.

warehouse, the day 17

Received of pounds of transfer tobacco, to be delivered on demand to him, or to his order, according to the directions of the act, intituled "An act for mending the staple of tobacco, and preventing fraud." Witness our hands.

Their date currency.

And shall bear date the day the tobacco for which the same is given, shall be received and passed, and shall be current in all tobacco payments, according to the species expressed in the receipt, within the county wherein such inspectors shall officiate, and in any other county next adjacent thereto, and not separate therefrom by any of the great rivers or bay herein-after mentioned, that is to say; James river below the mouth of Appamattox; York

below Westpoint; Rappahannock below Taliaferro's Mount; or by the bay of Chesapeake; and shall be transferrable from one to another in all such payments, except as herein is excepted, and shall be paid and satisfied by the inspector or inspectors who signed the same, upon demand. And for every hogshead of tobacco brought to any public warehouse and transferred, there shall be allowed by the inspectors thereof to the person bringing the same after the rate of four pounds of tobacco, for every hundred pounds of tobacco the said hogshead shall contain, for the cask, so as such allowance do not exceed thirty pounds of tobacco, provided the cask or hogshead is good, and of such dimensions as is hereinafter expressed, and the said inspectors shall, and they are hereby obliged to make every hogshead by them paid away in discharge of any receipt by them given as aforesaid, to contain one thousand pounds of nett tobacco at the least; and for every hogshead of tobacco by them paid away, well lined and nailed, fit for shipping, there shall be paid by the person shipping such hogshead, one dollar for inspection, and fifty-eight cents for prizing, and nails; which said sum of fifty-eight cents, the inspectors may retain in their hands for their own use, to reimburse them the expense and trouble of providing nails and prising. And the person demanding or receiving tobacco in discharge of receipts as aforesaid, shall allow to the inspectors thirty pounds of tobacco for each hogshead so received, for the cask, and two pounds of tobacco for every hundred pounds of tobacco contained in such receipts, and so in proportion for a greater or lesser quantity, for shrinkage and wasting, if the said tobacco be paid within two months after the date of the receipt given for the same, and one pound of tobacco for every hundred, for every month the same shall be unpaid after the said allowance; so as such allowance for shrinkage and wasting do not exceed in the whole six pounds of tobacco for every hundred. And if any inspector or inspectors, by whom any such receipts for tobacco as aforesaid shall be signed, shall refuse or delay to pay and satisfy the same when demanded, every inspector so refusing or delaying shall forfeit and pay to the party injured, double the tobacco so refused or delayed to be paid, to be recovered with costs in any court of record within this state, if the receipt or receipts so refused or delayed to be paid, ex-

Allowance for cask.

Weight of tobacco prized in discharge of receipts.

One dollar for inspection and fifty-eight cents for prizing and nails.

Allowance for cask and shrinkage.

Remedy against inspectors.

ceed two hundred pounds of tobacco; and if the said receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforesaid shall and may be recovered before any justice of the peace of the county wherein the warehouse shall be, at which the receipt or receipts ought to be paid.

How receipts are to be given for crop tobacco.

SECT. 21. All tobacco brought to any of the said warehouses in hogsheads, to be exported on account, and for the use of the owner thereof, after the same shall have been received, examined, found to be good, and weighed, shall be stamped as herein-before directed; and the said inspectors, or one of them, shall deliver to the person bringing the same, as many receipts, signed as aforesaid, as shall be required for the number of hogsheads so brought and stamped, in which shall be expressed, whether the tobacco so received, be sweet scented or Oronoko, stemmed or leaf, and whether the same be tied up in bundles or not; and where any hogshead hath part leaf and part stemmed, shall signify the same at the bottom of the receipt; and they shall not mix stemmed and leaf tobacco in any hogshead which they shall prize, and pay away in discharge of their transfer receipts; and

Inspection tax of one dollar to be paid by the exporter.

for every hogshead brought to any of the said warehouses, to be exported by land or water out of this state, there shall be paid to the inspectors attending at such warehouses, by the exporter, at the time of demanding the same for exportation, the sum of one dollar, and the owners of the tobacco shall find and provide nails sufficient for securing and nailing thereof; and where they shall fail so to do, the inspectors at such warehouse, shall furnish nails for the purpose aforesaid, and shall be allowed and paid by the owner, thirteen cents for each hogshead so secured. And if any inspector or inspectors,

Penalty on inspectors changing tobacco,

shall alter, change or deliver out any hogshead of tobacco, other than the hogshead, for which the receipt for crop tobacco to be taken in, was by him or them given; or shall alter or change any such tobacco, although no such receipt shall have been given, such inspector or inspectors shall forfeit and pay one hundred and fifty dollars for every hogshead so altered, changed or delivered out.

or failing to deliver it when demanded.

And if any inspector shall fail or refuse to deliver any hogshead of tobacco, when the same shall be demanded for exportation, such inspectors shall forfeit and pay to the owner thereof, double the value of the tobacco, which

To transfer crop tobacco.

they shall so refuse or fail to deliver. And all inspectors

shall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed such tobacco, to give transfer receipts for the same, with an allowance of four per centum for the cask; so as such allowance do not exceed thirty pounds of tobacco for every cask. *Provided*, that such hogshead shall contain, at least, one thousand pounds of nett tobacco, and not mixed leaf and stemmed. *Provided nevertheless*, that no inspectors shall give their receipt or receipts for any transfer or crop tobacco, which shall be opened or picked by any picker legally appointed, until the proprietor of such tobacco, or his or her agent, shall have first paid or tendered to such picker, his lawful charges for opening or picking the same. And in the absence of any such picker, a payment, or tender to any of the inspectors there attending, for the use of the picker, shall be as effectual as if made to such picker in person. And if any inspectors shall deliver their receipt or receipts for any such tobacco, so opened or picked, before such payment or tender be made, they shall be liable to such picker for the amount of the same.

Pickers to be paid before the receipts are delivered.

SECT. 22. And for restraining the undue practice of mixing trash with stemmed tobacco, and preventing the packing of tobacco in unsizeable casks. *Be it enacted*, that all stemmed tobacco not laid straight, whether the same be packed loose, or in bundles, shall be accounted unlawful tobacco; and that no tobacco packed in hogsheads, which exceed fifty inches in the length of the stave, or thirty-two inches at the head, within the crow, making reasonable allowance for prizing, which allowance shall not exceed two inches above the gauge, in the prizing head, shall be passed or received: but the owner of such tobacco, packed in casks of greater dimensions than before expressed, shall be obliged to repack the same in sizeable casks, at his own charge, before the same shall be received or stamped by the inspectors.

Stemmed tobacco to be laid staight.

Size of tobacco hogsheads.

SECT. 23. *And whereas* many and great inconveniencies have arisen from inspectors undertaking to deliver tobacco, the property of others, in their warehouses, without order from the proprietors of the same: *Be it enacted*, That if any inspector shall presume to deliver any tobacco in his warehouse, without order from the owner or proprietor of such tobacco, every inspector so offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable

Penalty for delivering tobacco without an order from the proprietor.

of serving forever after as an inspector in this state, and moreover shall be liable to the penalty of one hundred and fifty dollars for every hogshead of tobacco so as aforesaid delivered without order of the owner or proprietor thereof; to be recovered by such owner or proprietor thereof, if he or she shall prosecute within four months after the offence committed; or if he or she decline the prosecution, then after that time, by any person who shall inform or sue for the same, by action of debt or information, in any court of record within this Commonwealth.

And for issuing fictitious notes.

And if any inspector shall deliver any transfer receipts or notes of credit for tobacco, to any person or persons, unless at the time of delivering the same, he shall have actually and *bona fide* received and passed tobacco, the property of him, her, or them in whose name or names such receipts or notes shall be made out, to the full amount of the quantity therein specified, every inspector so offending, and being duly convicted, shall be disabled from serving as an inspector, and moreover shall forfeit twenty dollars for every hundred weight of tobacco such fictitious notes shall express, to any person who will sue for the same; recoverable by action of debt, in any court of record.

Inspector to give crop notes in exchange for transfer,

SECT. 24. The owners of any transfer receipts, may, at any time before the sale of the tobacco contained in such transfer receipts, as herein-after is directed, receive and mark hogsheads of tobacco to satisfy such receipts; and the inspectors shall take in their former receipts, and deliver crop receipts for such hogsheads, and shall be answerable for the safe keeping thereof, in the same manner as they are for crop tobacco; but the persons receiving such hogsheads, shall pay to the inspectors one dollar and fifty-eight cents, for the inspection and nails for every hogshead, that is to say, fifty-eight cents down to the inspectors for their own use for nails and their trouble in prizing, and one dollar as inspection, when the tobacco is delivered. And the inspectors shall at the court held for their county in the month of September yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all transfer receipts that were not by them taken in and received before the time of sale herein before mentioned: And after such account exhibited and oath made, shall sell the tobacco in such receipts contained, deducting the allowance for shrinkage

and at September court yearly give an account of, and sell tobacco for notes outstandnig;

and wasting, at public auction, at the door of the court-house, between the hours of twelve and two; and the inspectors shall pay the money arising by such sale, in satisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the same penalty as is inflicted for not paying inspectors receipts. And all inspectors shall keep a just and true account of the tobacco gained or saved upon the allowance made for cask and for shrinkage, and for transfer tobacco, or otherwise; and if any tobacco shall be so gained or saved, shall exhibit an account thereof, and shall also sell the tobacco so gained and saved, in the manner as is directed for the sale of transfer tobacco, and shall account for the money arising by such sale to the treasurer of this state for the time being, in their next account with him; and the said treasurer shall account for the same to the General Assembly; and no inspector shall convert any tobacco so gained to his own use.

also tobacco gained by allowance for cask and shrinkage.

SECT. 25. All inspectors shall before the tenth day of October, in every year, account with the treasurer of this state upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which shall be relanded at their inspections, for every hogshead of transfer tobacco; in which account they shall be allowed their salaries, the rents of the warehouses, and all other necessary disbursements in pursuance of this act. And in order to ease the inspectors giving their personal attendance at the treasury, they are hereby required, after stating their accounts with the treasurer, as above directed, to take the following oath before some one justice of the peace of the county where they officiate, to wit:—"We A. "B. and C. D. do swear, that the account now produced, "contains an exact state of all the tobacco shipped the "preceding year from————warehouse, all taxes re- "ceived, or due for the same, also all tobacco gained at "the said inspection by any means whatsoever So help "us GOD." And the justice of the peace before whom they are sworn, shall, and he is hereby required, to certify on the said account, that they have taken this oath.

To account with the treasurer upon oath, when and how.

SECT. 26. The several inspectors of tobacco in this state, shall annually, at the time of settling their accounts with the treasurer, deliver to him an account, upon oath, of all the tobacco shipped from their respec-

To return an acount annually of tobacco shipped.

tive warehouses within the year preceding, containing the number of hogsheads or casks sent on board each ship or vessel respectively; and every inspector failing therein, shall forfeit and pay the sum of one hundred and fifty dollars.

Proceedings where uninspected tobacco is about to be exported by water.

SECT. 27. And any justice of the peace of any county near the place where any ship or other vessel shall ride, upon information made to him upon oath, by any free man, that there is good cause to suspect any tobacco uninspected, in cask, bulk, or parcels, to be on board such ship or other vessel, shall, and he is hereby empowered and required to issue his warrant, directed to the sheriff or any constable of his county; and the sheriff or constable shall have full power and authority, and he is hereby required to enter and go on board of such ship or other vessel, to search for, and seize such tobacco, and the same being seized, shall be brought on shore and carried before the same, or any other justice, who shall cause the said tobacco to be carried to the nearest warehouse, and there inspected, and if passed, restored to the owner, in case he shall be innocent of the fraud; but if he shall appear to have been concerned in such fraud, or if no owner shall claim within three months, the said tobacco shall be sold by the inspectors, and the money arising from such sale be paid into the public treasury, and accounted for to the General Assembly. And the commanding officer or skipper of any ship or vessel, on board which such tobacco is found, shall forfeit to the informer twenty dollars for every hundred weight, and so in proportion for a less quantity; to be recovered with costs in any court of record, if it be five dollars or more. And if any master or commanding officer, or skipper of any ship or vessel, or any other person whatsoever, shall resist the officer in the execution of any such warrant, every such master, commanding officer or skipper, shall forfeit and pay six hundred dollars; and every sailor or other person so resisting shall forfeit and pay eighty dollars. And if any action shall be brought against any justice of the peace, sheriff or constable, for doing any thing in execution of this act, the defendant may plead the general issue, and give this act in evidence; and if the plaintiff shall be non-suited, or a verdict pass against him, or a judgment on demurrer, the defendant shall recover double costs.

Old tobacco to be sold.

Sect 28. Where any tobacco hath remained, or shall hereafter remain undemanded in a public warehouse two years after the same hath been or shall be inspected, the inspectors shall advertise in the Virginia Gazette for three weeks successively, a list of the marks, numbers, and weights of such tobacco, with the names of the persons for whom it was inspected; and if no owner appears to claim the same within three months, they shall at the next court to be held for the county in which such warehouse shall be, after the expiration thereof, and advertising as aforesaid, deliver to the court the like list, which court is hereby empowered and required, to order the same to be publicly sold at the courthouse door, on a court day, to the highest bidder; the clerk of such court shall transmit within three months to the auditor of public accounts, a list of such tobacco so directed by the court to be sold; and the money arising from the sale thereof, shall be paid by the inspectors to the treasurer of this state for the time being, who shall account for the same, from time to time, to the General Assembly. And if any person, having a right to any tobacco so sold, shall prove his property therein, the said treasurer shall repay to such person the money for which such tobacco was sold.

Inspectors incapacitated for other offices.

Sect. 29. No person taking upon himself the office of inspector, shall during his continuance in that office, or until he hath obtained a *quietus* from the treasury, be capable of being elected a member of either house of Assembly, or shall presume to intermeddle, or concern himself with an election of a member or members of either of the said houses, otherwise than by giving his vote, or shall endeavour to influence any person or persons in giving his or their vote, under the penalty of one hundred and fifty dollars for every offence; nor shall any inspector by himself, or any person for him, be allowed to keep an ordinary or house of entertainment at or near the warehouse where he is an inspector; and every inspector herein offending, shall be incapable of serving in that office; neither shall any inspector during his continuance, be, or undertake to be a sheriff, justice of the peace, collector of any public tax, other than what relates to any such office, county levies or poor rates, or any officer's fees; nor shall directly or indirectly for himself, or for any other person, buy, or receive by way of barter, loan or exchange, any tobacco whatsoever, un-

der the penalty of ten dollars, for every hundred weight of tobacco so bought or received. *Provided*, that nothing herein contained, shall be construed to hinder any inspector from receiving his rents in tobacco, which shall be first viewed, examined and stamped according to the directions of this act.

Penalty on inspectors receiving other gratuity than their salaries and other legal allowances.

SECT. 30. And for the further and better direction of the inspectors aforesaid in their duty, *Be it enacted*, That no inspector shall take, accept or receive, directly or indirectly, any gratuity, fee or reward, for any thing by him to be done in pursuance of this act, other than his salary and the other payments and allowances herein before mentioned and expressed; and if any inspector shall take, accept or receive any such gratuity, fee or reward, such inspector being thereof convicted, shall forfeit and pay the sum of three hundred dollars; to be recovered with costs, by any person or persons who shall inform or sue for the same, by action of debt or information, in any court of record within this Commonwealth, and moreover shall be disabled from holding the office of inspector during the continuance of this act. And if any person shall offer any bribe, reward or gratuity, to any inspector for any thing by him to be done in pursuance of this act, other than the fees and allowances herein before directed, every person so offending, and being thereof convicted, shall for every such offence, forfeit and pay the sum of sixty dollars; to be recovered in any court of record within this state; one half of which forfeiture shall be to and for the use of such inspector refusing such bribe or reward, and the other half to the person who will inform and sue for the same.

And on the person offering a bribe.

Inspectors' salaries.

And there shall be paid to each of the inspectors appointed to attend, and attending the said several warehouses, the salaries herein-after mentioned, that is to say:—At Pitt's, Guildford, and Pungoteague, under one inspection, one hundred and sixteen dollars and sixty-seven cents; at Roy's, two hundred dollars; at Bolling's point, two hundred and sixty-six dollars and sixty-seven cents; at Bollingbrook's, two hundred and sixty-six dollars and sixty-seven cents; at Cedar-point, two hundred sixty-six dollars and sixty-seven cents; at Hobb's Hole, one hundred and sixteen dollars and sixty-seven cents; at Bowler's, one hundred dollars; at Layton's, one hundred dollars; at Colchester, one hundred and sixty-six dollars and sixty-seven cents; at Alexandria, two hundred dollars; at the falls of Pa-

towmac, one hundred and thirty-three dollars and thirty-three cents; at Poropotank, one hundred dollars; at Deacon's neck, one hundred dollars; at Page's, two hundred and sixty-six dollars and sixty-seven cents; at Crutchfield's, two hundred dollars; at Meriwether's, two hundred dollars; at Rocky-ridge, two hundred and sixty-six dollars and sixty-seven cents; at Osborne's, two hundred dollars; at John Bolling's, two hundred and thirty-three dollars and thirty-three cents; at Manchester warehouse, two hundred and sixty-six dollars and sixty-seven cents; at Trent's warehouse, two hundred and sixty-six dollars and sixty-seven cents; at Johnson's, two hundred and sixty-six dollars and sixty-seven cents; at Byrd's, two hundred and sixty-six dollars and sixty-seven cents; at Shockœ, two hundred and sixty-six dollars and sixty-seven cents; at Rockett's, two hundred and sixty-six dollars and sixty-seven cents; at Smithfield and Fulgham's, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at Shepherd's, one hundred dollars; at Mantapike and Frazer's, under one inspection, one hundred and fifty dollars; at Todd's and Aylett's, under one inspection, one hundred and fifty dollars; at Boyd's-hole and Machodack, under one inspection, one hundred and fifty dollars; at Gibson's, one hundred dollars; at Davis's and Lowry's, under one inspection, one hundred dollars; at Deep creek and Glasscock's, under one inspection, one hundred and sixteen dollars and sixty-seven cents; at North and South Wicomico, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at Coan's, one hundred and sixteen dollars and sixty-seven cents; at Indian creek and Dymer's, under one inspection, one hundred dollars; at Urbanna, one hundred dollars; at Kemp's warehouse on Pianketank, fifty dollars; at Milner's, one hundred and thirty-three dollars and thirty-three cents; at Suffolk, one hundred and thirty-three dollars and thirty-three cents; at Cherrystone's and Naswaddox, under one inspection, one hundred and sixteen dollars and sixty-seven cents; at Littlepage's, one hundred and sixteen dollars and sixty-seven cents; at the Brick-house, one hundred dollars; at Hood's, one hundred dollars; at Boyd's two hundred and sixty-six dollars and sixty-seven cents; at Davis's, two hundrd and sixty-six dollars and sixty-seven cents; at Blandford, two hundred and sixty-six dollars and sixty-seven cents; at Quantico, two hun-

dred and thirty-three dollars and thirty-three cents; at Dumfries, two hundred and thirty-three dollars and thirty-three cents; at M'Rae's two hundred dollars; at Bullitt's, one hundred and sixty-six dollars and sixty-seven cents; at Cat point, one hundred dollars; at Totuskee, one hundred dollars; at Gray's creek, one hundred and sixteen dollars and sixty-seven cents; at Low point, one hundred and thirty-three dollars and thirty-three cents; at Falmouth, two hundred dollars; at Acquia, one hundred and sixty-six dollars and sixty-seven cents; at Dixon's, two hundred dollars; at Fredericksburg, two hundred and thirty-three dollars and thirty-three cents, at Royston's, two hundred and thirty-three dollars and thirty-three cents; at Nomony, one hundred dollars; at Leed's and Mattox, under one inspection, one hundred and sixty-six dollars and sixty-seven cents; at Yeocomico and Kinsale, under one inspection, one hundred and thirty-three dollars and thirty-three cents; at the College landing, eighty-three dollars and thirty-three cents; at York-Town, eighty-three dollars and thirty-three cents; at Hampton, fifty dollars; at Crow's warehouse and at Cresap's, the inspectors shall receive for each hogshead by them inspected, the sum of sixty-seven cents, seventeen cents whereof shall be paid to the proprietor for the rent of the warehouse, and the residue for their own use; at Romney, fifty dollars; at Lynch's, two hundred and twenty dollars; at Rivanna, one hundred and thirty-three dollars and thirty-three cents; at Swan creek, one hundred and thirty-three dollars thirty-three cents; at Mecklenburg, one hundred dollars; at Barksdale's, two hundred and sixty-six dollars and sixty-seven cents; at West-hill, two hundred and sixty-six dollars and sixty-seven cents; at High-street, two hundred and sixty dollars and sixty-seven cents; at Westbrook, two hundred and sixty-six dollars and sixty-seven cents; at Petersburg, two hundred and sixty-six dollars and sixty-seven cents; at Henderson's one hundred and thirty-three dollars and thirty-three cents; at Nicholas's, one hundred and thirty-three dollars and thirty-three cents; at Morgan-Town, fifty dollars; at Great Falls, one hundred and thirty-three dollars and thirty-three cents; at Woodson's, one hundred and sixty-six dollars and sixty-seven cents; at Portsmouth, one hundred dollars; at Thornton's, one hundred and sixty-six dollars and sixty-seven cents; at Amherst, one hundred dollars;

at Booker's one hundred and thirty-three dollars and and thirty-three cents; at Horsley's, one hundred dollars and thirty-three cents.

If the warehouse does not pay the inspectors' salaries, the deficiency not to be made good by the public.

SECT. 31. *Provided always*, That if the quantity of tobacco, which shall be received at any warehouse already established, or hereafter to be established, shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

Inspectors above the falls of James River to deliver printed manifests with the tobacco.

SECT. 32. The inspectors at the several warehouses, established above the falls of James River, upon the delivery of their notes, or an order where notes have not been issued, shall deliver the tobacco for transportation, with a printed manifest, descriptive of the owner's name, the name of the skipper of the batteau or canoe, if transported by water, or if waggoned, the name of the waggoner, to what warehouse or port the same is destined, and to whom to be delivered; the said manifest shall moreover express the marks, numbers, and weights of the tobacco, and each hogshead shall be stamped with the name of the warehouse at which it was inspected; which manifest shall, by the skipper or waggoner, (as the case may be) if the tobacco is intended to be sent to any warehouse heretofore established, be delivered to the inspectors thereof, who are hereby required to receive the same, and grant a receipt therefor, and enter such tobacco in a separate book to be by them provided and kept for that purpose, and on the receipt aforesaid being presented, shall deliver the said tobacco with such manifests, as by law are required for other tobacco lodged in their warehouses for exportation, when required, and may demand for all such tobacco the same warehouse rent as for other tobacco by them inspected. *Provided always*, that nothing in this act contained, shall be construed to prevent any owner of tobacco passed at the said inspections, who has previously paid the legal duties, from exporting, selling, or storing the same in any private warehouse, without being obliged to store it in any warehouse heretofore established.

Copies thereof and of certificates of payment of duties to be sent to the auditor.

SECT. 33. The owners of such tobacco, previous to the delivery thereof, shall procure a duplicate of the manifest, with a certificate from the inspectors, that the duties imposed by law have been paid; which certificate, with all others granted in similar cases, shall be lodged with the clerk of the court of that county where the tobac-

co was inspected, to be by him transmitted to the auditor of public accounts, on or before the twenty-fifth day of October, annually, to be by him compared with the inspectors accounts. And in case the owner of the tobacco shall suspect any fraud to have been practised or used by any skipper or waggoner in the transportation thereof from either of the said warehouses, it shall be lawful for the inspectors at any warehouse to which the same may be brought, and they are hereby required, at the request of such owner, to reinspect and weigh the same, and if found to be damaged or embezzled, the inspectors shall not enter the same in their books, but it shall remain subject to the directions of the owner, in like manner as other damaged tobacco.

Owner may have his tobacco re-inspected and weighed.

Thewarehouses to be under the same regulations as others.

SECT. 34. The appointment of inspectors, and all other regulations appertaining to the said warehouses, shall be the same as are provided for by law for other inspections, so far as the same do not contravene this act.

Allowance to the inspectors and for warehouse rent.

All tobacco inspected at either of the said warehouses, shall be subject to the same duties and imposts, and be collected and accounted for by the inspectors in the same manner, and under the like penalties, as are directed and prescribed for other warehouses heretofore established.

Tobacco inspected there, shall not be a tender in certain contracts.

And the inspectors at each of the said warehouses, may demand and receive for each hogshead by them inspected, the sum of sixty-seven cents, seventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouse, and the residue for their own use. *Provided nevertheless*, that no person shall be obliged to receive any notes passed at any of the said warehouses, in discharge of any tobacco contracts heretofore entered into.

Inspectors to deliver tobacco to be manufactured.

SECT. 35. The inspectors of the several warehouses within this Commonwealth, shall deliver any inspected tobacco to any person or persons who shall duly demand the same, by delivery of the notes or otherwise, for the purpose of manufacturing it, and grant him or them a manifest therefor, upon such persons paying the usual duties, and lodging with them a certificate of his or their having, before some court of record within this Commonwealth, entered into a bond with sufficient security, in the penalty of fifteen hundred dollars, payable to the governor and his successors, for the use of the Commonwealth, with condition that he or they will not export, or cause, or suffer to be exported, either by land or

water, any tobacco received by him or them, for the purpose of manufacturing, until it has been manufactured.

Method of detecting inspectors who do not do their duty.

SECT. 36. And for the better detecting inspectors who shall not do their duty, and for the more speedy and easy examination into complaints against them; *Be it enacted*, that any two justices of the peace shall have power to hear all complaints against any inspector within their county, and to take the depositions of witnesses upon the matter of such complaint on both sides, which shall be transmitted by them to the governor and council, for their determination, And to the end such depositions may be taken in the best manner, the clerk of the county, or some sufficient person by him to be appointed, shall attend the said justices for that purpose, and be paid by the county the same fees as are or shall be by law established for attending the examination of witnesses upon a *dedimus potestatem*. And moreover any two justices shall have power to visit all or any of the public warehouses within their county, and if they shall discover any negligence in the inspectors, either in securing the tobacco, or stowing the same away in a proper manner for saving the room in such houses, or that they are guilty of any other breach or breaches of their duty, the justices shall certify the governor and council thereof. And if any inspector shall be adjudged guilty of a breach of his duty, he shall be removed from his office, and be for ever after incapable of serving as an inspector. And if any inspector shall be removed from his office, upon a complaint and prosecution against him in the method by this act prescribed, he shall be liable to the action on the case of the prosecutor for his necessary costs and expences in such prosecution, in which the prosecutor shall recover his full costs of suit; but if the inspector or inspectors shall be acquitted upon such examination, the prosecutor shall be liable to the action of such inspector or inspectors, for the recovery of all damages and expences which he or they shall have sustained or been put to by such prosecution, and costs, unless the governor and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector; in which action the plaintiff shall recover his full costs, although the damage do not exceed seven dollars.

When warehouses are burnt the public to pay for the tobacco and inspectors indemnified.

SECT. 37. If any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaid to the several persons injured, by the General Assembly; and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts; any thing herein before contained to the contrary, notwithstanding. *Provided always*, that if the receipts for tobacco so burnt and destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Exception.

Warehouses not to be used for private purposes.

SECT. 38. The inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, or by the negligence or voluntary act or permission of such inspectors, then the estates of such inspectors shall be subjected to pay to the treasurer for the time being, all such sum or sums of money as shall have been paid to the person or persons so injured, to be recovered by such treasurer, by action of debt in any court of record within this Commonwealth.

No fire to be kindled in or near a warehouse.

SECT. 39. If any person hereafter shall make any fire within any public warehouse, or without doors within one hundred yards of such warehouse, other than in the inspectors' counting-rooms, squares, or funnels, such person, if a freeman, shall, for every such offence, forfeit and pay thirty dollars; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she shall, by order of any justice of the peace, receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or

Nor wooden chimnies built near them.

neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required to cause such chimney or chimnies to be pulled down and demolished.

Death, to issue double notes for the same tobacco, or notes for tobacco not received.

SECT. 40. If any inspector or inspectors shall give, deliver, or issue to any person whatsoever, his or their receipt expressed to be for any hogshead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hogshead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorised by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy.

Method to taken where receipts are lost.

SECT. 41. If any inspector's receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is payable, to the number and date of every such receipt, to whom and where payable, and for what quantity of tobacco the same was given; and that such receipt is lost, mislaid, or destroyed, and that he, she or they, at the time such receipt was lost, mislaid or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give bond with sufficient security to the inspectors in double the amount of the tobacco so claimed, to indemnify the person who may thereafter produce the original receipt within twelve months after notice given of the loss of such receipt, the value by him paid for the same, when a duplicate of the said receipt shall be granted by the inspectors to the person or persons entitled to receive the tobacco by virtue of such original receipt, and not otherwise. The bond so taken shall be assignable by the inspectors taking the same to the person producing the original receipt, who may maintain an action of debt thereupon, and such as-

signment shall exonerate the inspectors from any claim or demand against them by virtue of the original receipt. *Provided nevertheless*, that if the principal and security should at the time of taking such bond be insufficient, that in that case the inspectors shall be responsible for the value of the tobacco to the person producing such original receipt. And if any person shall be convicted of making a false oath, or producing a forged certificate in the case aforesaid, such person shall suffer as in case of wilful and corrupt perjury.

New inspectors to give their predecessors a receipt for the tobacco in the warehouses.

SECT. 42. When any new inspectors shall be appointed at any of the said warehouses, such inspectors shall, and they are hereby required, to give to the person or persons whom they shall succeed, a receipt with his or their hands subscribed, containing the numbers, marks, gross, tare, and nett weight, of all and every hogshead or cask of tobacco which shall be then remaining at the warehouse or warehouses, at which they are appointed inspectors, with the delivery and payment of which said hogsheads or casks of tobacco so remaining, he or they shall from thenceforth be chargeable and liable; but he or they shall in no wise be accountable or answerable for the loss of weight, or for quality of tobacco contained in any hogshead or cask, for which receipt was by him or them so as aforesaid given. And if any hogshead or cask of tobacco shall hereafter be received by any person or persons whatsoever, and delivered out of any of the said warehouses for exportation by the inspector or inspectors attending the same, such inspector or inspectors from the time of such delivery, shall be for ever discharged and acquitted from all actions, costs, and charges, for, or by reason of the tobacco contained in any such hogshead or cask being unsound and unmerchantable, or of less quantity than the receipts given for the same shall specify; any thing herein before contained to the contrary, notwithstanding.

Inspectors discharged on the delivery of tobacco.

Prizes to be used in turn for prizing tobacco picked or light hogsheads.

SECT. 43. And when any prized tobacco shall be brought to any public warehouse, in order to be shipped on freight or otherwise, and the inspectors there attending shall refuse to pass such tobacco, such as shall be bad and unmerchantable, shall be picked and separated from the rest; or where any light crop tobacco shall hereafter be brought to any of the said warehouses, in either case, the said inspectors, if required, shall permit the owner or other person bringing such tobacco, to make

use of one or more of their prizes, for the repacking, prizing, or making heavier such tobacco, without fee or reward; and if there shall be several hogsheads of tobacco belonging to several owners, to be picked, repacked, or prized, at any public warehouse, the owner or other person bringing the same, whose tobacco shall be first viewed and refused, or found light, shall be first permitted and allowed to make use of such prize or prizes for the purposes aforesaid; and no inspector shall take or convert to his own use, or otherwise dispose of, any draughts or samples of transfer or crop tobacco, but the same, if fit to pass, shall be put into the hogshead or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught so taken away, and not returned as aforesaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own use, and the other moiety to the use of the proprietor of such tobacco, before any justice of the peace of the county wherein such offence shall be committed. And all inspectors, if required, shall alter the mark and number of any hogshead of reprized tobacco for which they have before given a receipt; and for preventing confusion and mistakes, shall keep a waste book, in which shall be entered the marks and numbers of all hogsheads of tobacco received by them, and another book in which shall be entered the marks, numbers, and weights thereof, when the same shall be delivered out by them; and all inspectors, when required, shall be obliged to prize any light hogshead of tobacco under one thousand pounds so as to make it up the weight one thousand pounds nett, but shall receive the same fee upon such hogshead, as for transfer tobacco. And where any tobacco shall be brought to the warehouse by the overseer of the owner thereof, the inspectors shall give receipts in the name of the owner, and not of the overseer.

Penalty for taking and using draughts.

Inspectors to prize light crop tobacco on request.

To give notes in the name of the owner.

SECT. 44. The inspectors of tobacco at the several warehouses within this state, shall immediately on the delivery of every hogshead of tobacco at the warehouse whereof they are inspectors, give a receipt for such tobacco if required by the proprietor or person bringing the same to the said warehouses, expressing therein that the same is for uninspected tobacco; every inspector refusing so to do, shall forfeit and pay to the owner of such tobacco, the sum of four dollars.

To give receipts for tobacco when brought.

The oaths of masters of vessels intending to load with tobacco.

SECT. 45. Every master, mate, or boatswain of any ship or other vessel, which shall arrive in this state in order to load tobacco, shall, before the said ship or other vessel be permitted to take on board any tobacco whatsoever, make oath before the collector of the port wherein such ship or other vessel shall arrive (which oath the said collector is hereby empowered and required to administer) that they will not permit any tobacco whatsoever to be taken on board their respective ships or vessels, except the same be packed in hogsheads or casks, stamped by some inspector legally thereunto appointed; which oath they shall subscribe in a book to be kept by the said collector for that purpose; and if any master shall cause any person who is not really and *bona fide* mate or boatswain, to come on shore and take such oath, he shall, for the said offence, forfeit and pay fifteen hundred dollars.

No tobacco to be taken on board any vessel in bulk or parcels.

SECT. 46. If any person not being a servant or slave, taking upon himself to carry any tobacco to or from any of the said warehouses in his boat or other vessel for hire, shall take on board, or permit, or suffer to be taken on board, any tobacco whatsoever, in bulk or parcels, such tobacco shall not only be forfeited, and may be seized by any person or persons whatsoever, but the master or skipper offending herein, shall forfeit and pay fifty cents for every pound weight of such tobacco; and the master or commander of any ship or vessel, wherein any tobacco in bulk or parcels shall be found, shall over and above the forfeiture thereof, be subject and liable to the same penalty; to be recovered, if it doth not exceed twenty dollars, before any two justices of the peace of any county near the place where such ship, boat, or other vessel shall lie; and if it exceeds twenty dollars, in any court of record by action of debt, wherein the plaintiff shall recover his costs. And if any servant, or other person employed in navigating any such boat or other vessel, shall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforesaid, he shall pay the sum of twenty dollars, to be recovered as aforesaid; and if such servant or other person, shall be unable to pay the said sum, he or they shall, by order of such justice, receive on his bare back, thirty-nine lashes well laid on; and if such boat or other vessel be under the care and management of a servant who cannot pay and satisfy the penalty so to be inflicted on the master

Penalties.

or skipper offending as aforesaid, then such servant, and every other person employed under him, unable to pay the said penalty, who shall be guilty of conniving at, or concealing the taking on board tobacco in bulk or parcels, as aforesaid, shall, upon every complaint, and proof thereof made to a justice of the peace, have and receive, by order of the said justice, thirty-nine lashes well laid on; and if any servant shall again be entrusted with the care and management of any boat or other vessel, and shall be convicted a second time of taking or receiving on board the same, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of such servant shall forfeit and pay the like sum of fifty cents per pound for every pound weight of such tobacco so taken or received on board in bulk or parcel, and shall also forfeit and pay two dollars for every day such servant shall thereafter be employed as skipper or master of any boat or vessel to him belonging; to be recovered and applied as aforesaid. *Provided nevertheless*, that it shall be lawful for the proprietor or proprietors to break any hogshead of tobacco after it shall be passed and stamped, and to repack and prize the same into small casks for the convenience of stowing, provided it be done at the warehouse where the same was inspected and weighed, marked, and stamped; and the inspectors shall particularize all such casks in their manifests to be given to the masters or skippers of the vessel in which such tobacco be laden. *Provided always*, that nothing herein before contained, shall be construed to prohibit any person from carrying, or causing to be carried to the said warehouses, in any boat or other vessel, any tobacco in bulk or parcels, for the payment of his or her levies, debts or other duties, or to prohibit any person to put or take on board any boat or other vessel, any hogsheads or casks of tobacco, to be water-borne to any warehouse appointed by this act, so as the same be not carried out of the collectors or other officers of the customs district wherein the said tobacco shall be made, nor to prohibit the owner of any tobacco to transport his crops, or any part thereof, in hogsheads or casks, from one plantation to another, for the better handling and managing thereof, nor any purchaser of tobacco from bringing the same by water, to be repacked, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogsheads or

Provisos for sundry purposes.

casks; but no tobacco on any pretence whatsoever, shall be carried or transported by water, to be inspected out of the district limited and appointed for the several collectors or other officers of the customs of this state, wherein the same shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, ten dollars for every hogshead to the informer. *Provided nevertheless*, that it shall and may be lawful for the inhabitants of Fleet's bay on the south side of Indian creek, in the county of Lancaster, to carry their tobacco by water to the public warehouse at Indian creek; and the inhabitants at Warrasqueake bay, and the parts adjacent, to carry their tobacco to be passed at any warehouse in the upper district of James river.

Relanded tobacco must be delivered at some public warehouse.

Penalty for landing it elsewhere, or for opening hogsheads and taking out tobacco.

Exception as to tobacco landed in distress of weather.

SECT. 47. If the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on shore any hogshead, cask, or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement; or shall open any hogshead or cask of tobacco so as aforesaid water-borne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hogshead or cask, and take thereout any tobacco, every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore, any hogshead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse

or ship (as the case may be) to which it was designed, without embezzlement. *Provided also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board, every hogshead or cask of tobacco so damnified, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed and stamped with the weight by the inspector attending such warehouse, without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner two dollars for their trouble and nails.

Provision as to damaged tobacco.

SECT. 48. And to the intent that the just quantity of tobacco exported may be more exactly known, and evil practices to defraud the public of the duty prevented; *Be it enacted*, that all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and, in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight and tare of every hogshead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogsheads or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board

Inspectors to keep books, &c.

and deliver manifests with each load of tobacco.

Tobacco may be relanded or put on board other ships.

any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogsheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there bo no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons relanding such tobacco, twenty-five cents for every hogshead so relanded, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

Masters of vessels to give in upon oath manifests of their tobacco when clearing out.

SECT. 49. Every master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogshead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, and that the same is a just and true account of the marks, numbers, tare and nett weight of each respective hogshead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty-fifth day of October, annually, to the treasurer of this Commonwealth for the time being; and every collector failing herein shall forfeit and pay the sum of three hundred dollars for every such failure.

Penalties how to be recovered.

SECT. 50. All the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be, one moiety to the Commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same; and shall be recovered with costs by action of debt or information in any court of record within this

Commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

When warehouses shall be discontinued.

SECT. 51. In case any warehouses heretofore or hereafter established shall not for the space of three succeeding years receive a sufficient quantity of tobacco to pay the inspectors' salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expence. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

Public printer to furnish inspectors with copies of this act.

SECT. 52. The public printer shall furnish one copy of this act to the inspectors at each of the warehouses herein mentioned.

Inspectors exempted from militia duty.

SECT. 53. The acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

Former acts repealed.

SECT. 54. All acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act. Proviso.

SECT. 55. This act shall commence and be in force from and after the passing thereof.

CHAP. XIX.

An act reducing into one, the several acts for regulating the inspection of Flour and Bread.

(Passed December the 21st, 1792.)

Preamble.

SECT. 1. WHEREAS the laws heretofore made for the inspection of flour, have been found defective, and it

has become necessary to adopt some regulations for the prevention of frauds in the exportation of bread:

Inspectors of flour to be appointed; places of inspection.

SECT. 2. *Be it therefore enacted by the General Assembly*, That one inspector of flour shall be appointed at each of the following places, to wit:—Alexandria, Fredericksburg, Richmond, Petersburg, Blandford, West-point, Newcastle, York, Falmouth, Port-Royal, Hobb's-hole, Colchester, Dumfries, Manchester, Osborne's, Pocahuntas, Nomony, Broadway, Low-point in Surry, Suffolk, Hampton, South Quay, Norfolk, Morgan's town, Smithfield, Fort-Wheeling, Lynchburg, Hanover town, Portsmouth, Cumberland town, at the mouth of Buffaloe-creek on the lands of Charles Prather, and at the mouth of Short Creek on the lands of David Chambers, in the county of Ohio.

Inspectors how to be appointed.

SECT. 3. The courts of the several counties in which the places aforesaid are situated, shall at their courts held in the months of September or October in every year, nominate and appoint a person of good repute, and who is a skilful judge of the quality of flour, to be inspector of flour at each of the places aforesaid. In case of the death of any person so appointed, or his refusal or neglect to act, the justices of the said counties respectively, or any three of them, shall as soon as conveniently may be thereafter, meet together and appoint some other person in the room of the one so dead, or refusing or neglecting to act, who shall execute the duties of his office, until the next court held for the county, where such vacancy may have happened; and at such court the justices shall appoint in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspector at the time directed by this act, the governor, with the advice of the council, may supply such vacancy; and the person so appointed, having taken the oath herein after mentioned, before a justice of the peace, shall continue in office during the same time, and have the same power and authority as if he had been appointed by the court of the county.

Wheat flour not to be mixed with any other.

SECT. 4. All bolted wheat flour, and every cask thereof, brought to any of the places before-mentioned for exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat.

How barrels to be made.

SECT. 5. All bread and flour casks which shall be brought to any of the places before-mentioned for exportation, shall be well made, of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit: the staves shall be twenty-seven inches in length, and the heads seventeen inches and a half in diameter; and half barrels shall be of the following dimensions, to wit: the staves shall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

Millers and bakers to keep brand marks.

SECT. 6. Every miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand-mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every cask of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed, and not branded and marked as aforesaid, to be recovered from such miller or baker, who shall neglect to comply with the directions of this act, or from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said flour or bread for sale, such person shall and may recover the same from the miller, baker or bolter from whom such flour or bread was purchased or received; provided it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before-mentioned for sale or exportation, and that he requested such baker, miller or bolter, to secure and brand the said barrels.

Penalty for removing flour and bread not hooped, nailed and branded.

Contents of casks of flour.

SECT. 7. Every miller and bolter shall put into a barrel the full quantity of one hundred and ninety-six pounds of flour, and shall put into every half barrel the full quantity of ninety-eight pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, seventeen cents.

Penalty for deficiency in the weight.

Casks of bread to be weighed and tare marked thereon.

SECT. 8. All casks wherein bread shall be packed, shall be weighed, and the tare marked thereon; and if any person shall put a false or wrong tare on any cask

of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents; and the inspector, or his assistants, upon suspicion, or at the request of the purchasers, shall, and he is hereby required, to unpack any cask of flour or bread; and if there shall be a less quantity of flour than is above directed, or if the cask wherein bread is packed, shall be found to weigh more than is marked thereon, the miller, baker, or bolter (as the case may be) shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise the said charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Inspector may unpack flour suspected to be falsely packed.

Bakers to deliver manifests with bread intended to be exported. Penalty for deficiency in the weight.

SECT. 9. Every baker of bread for exportation, shall deliver with the said bread a manifest of the contents thereof, with his brand mark thereon, and his name subscribed thereto, under the penalty of seven dollars for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion as is heretofore directed as to flour.

Flour to be inspected before exported.

SECT. 10. Any cask of flour brought to any of the places before-mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument, not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed and merchantable according to the directions of this act, he shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness, which he shall on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, ship-stuff; for which trouble the inspectors at Alexandria, Fredericksburg, Falmouth, Richmond, Manchester, Petersburg, Pocahuntas, and Blandford, shall have and receive of the owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmer-

Marks when inspected.

Fee for inspection.

Inspector to condemn un-

chantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the judgment or want of skill in an inspector, in rejecting flour as unmerchantable; it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is herein after directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall repay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the costs of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any cask of flour marked "condemned," by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board of any ship or vessel for exportation.

merchantable flour.

But the prohibitor may have it reviewed.

Penalty for exporting condemned or uninspected flour.

SECT. 11. And whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: *Be it enacted*, that if any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered

Penalty for packing flour, &c. in old casks which have been branded and marked.

by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

When flour may be inspected at merchant mills.

SECT. 12. *Provided nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him; and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before-mentioned places.

Oath of inspectors.

SECT. 13. Every inspector of flour before he enters on the execution of his office shall make oath or affirmation "That he will without favour, affection, malice or par-"tiality, carefully inspect all flour brought to him, and "which he shall be required to examine; that no flour "shall be passed or branded by him without his inspect-"ing the same; that he will not brand, or cause to be "branded, as passed, any cask or casks of flour, that do "not appear to him to the best of his skill and judgment, "to be sufficiently clean, well ground, sweet and mer-"chantable; that he will mark on all casks of flour the "degree thereof, according to the directions of this act, "that he will carefully examine the casks in which flour "brought for inspection shall be contained, and that he "will not pass or brand any such casks, unless they be "of such size, goodness and thickness as by this act re-"quired."

Not to purchase flour.

SECT. 14. No inspector of flour shall directly or indirectly purchase any flour by him condemned, or any other flour whatsoever, other than for his own use, under the penalty of seven dollars for every barrel by him purchased.

Penalty for altering the mark of flour: for marking uninspected flour. For packing other flour in casks marked.

SECT. 15. If any person shall alter the mark stamped on any cask of flour by an inspector, or shall mark or brand any cask of flour which has not been inspected, with any mark or brand similar to, or in imitation of an inspector's mark or brand, or after an inspector shall have passed any cask of flour as merchantable, shall pack into such cask any other flour, or after any cask of flour shall

be branded "condemned," shall unpack and repack the same in other casks for exportation, such person shall forfeit and pay the sum of seven dollars for every cask. For packing condemned flour in other casks.

SECT. 16. If the quantity of flour which shall be brought to any of the above mentioned places for inspection, shall at any time be so great that the inspector cannot alone examine the same with sufficient dispatch; or if through sickness the inspector shall be incapable of discharging the duties of his office, on such occasions, it shall be lawful for him to appoint one or more persons of good repute, and good judges of the quality of flour, to assist him in the execution of his office. Such assistants having taken the oath or affirmation prescribed by this act to be taken by an inspector, shall be authorised to inspect and brand any flour in the same manner as the inspector may do. When inspectors may appoint deputies.

SECT. 17. The courts of the several counties in which the before-mentioned places are situated, may at any time remove from office any inspector of flour for neglect of duty, malfeazance, or corrupt practices, and may supply the vacancy occasioned thereby, by appointing another inspector for the residue of the year. How they may be displaced.

SECT. 18. The penalties and forfeitures imposed by this act may be recovered by the informer before a single magistrate, where the penalty does not exceed five dollars, and where they are over that sum, but do not exceed twenty dollars, the same shall be recovered by petition in the same manner as is by law directed in case of petitions for the like sum of money, and where the penalty incurred shall exceed the sum of twenty dollars, the prosecutor may sue for the same in the court of the county, or corporation, where the defendant resides, or where the offence was committed, one half of which said penalties and forfeitures shall accrue to the use of the informer, and the other half to the use of the Commonwealth, if not otherwise appropriated. The prosecutor may make oath before the justice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, shall endorse upon the back of the writ, and thereupon the defendant shall be ruled to give special bail. Penalties how recoverable. Defendants may be ruled to give special bail.

SECT. 19. All acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. Former acts repealed.

Proviso.

Provided always, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

SECT. 20. This act shall commence and be in force from and after the passing thereof.

CHAP. XX.

An act to amend an act, intituled, "An act authorising the executive to direct the sheriffs to sell certain Lands the property of this Commonwealth.

(Passed November the 24th, 1792.)

Public lands not to be sold by the sheriffs unless the sales amount to the debts due to, and expences incurred by the public.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the passing of this act, it shall not be lawful for any sheriff, to sell any tract or parcel of land belonging to this Commonwealth, under the directions of an act, intituled, "An act authorising the executive to direct the sheriffs to sell certain lands the property of this Commonwealth," unless the same shall sell for the whole sum due to the Commonwealth, including the original cost and the expenses attending the sale thereof, and excluding the damages imposed by the act, intituled, "An act to remedy abuses in the manner of selling lands for the payment of public taxes."

Surveyors fees to be paid out of the aggregate fund.

SECT. 2. *And be it further enacted*, That the fees of the county surveyors, as well for having surveyed any tract or parcel of land, which under the last recited act has already become the property of the Commonwealth, and which have not been paid, as for making any future survey in pursuance of the said act, shall be paid out of the aggregate fund, and in no other manner.

Certain sheriffs and surveyors prohibited from purchasing such lands, or interfering in the sales thereof, under certain penalties.

SECT. 3. *And be it further enacted*, That no sheriff or deputy sheriff, who hath been heretofore concerned in the sale of any of the above described lands, and no surveyor or deputy surveyor, shall become the purchasers of any such lands, either directly or indirectly; and if contrary to the intent and meaning of this act, any sheriff or surveyor, or the deputy or deputies of either, shall become purchasers thereof, or interfere in any manner in the sale

thereof, such purchase shall not only be null and void, but every such person and persons so offending, shall moreover forfeit and pay the sum of three hundred dollars; to be recovered by bill, plaint or information, in any court of record within this Commonwealth, one half to the use of the informer, and the other half to the use of the Commonwealth.

Conditions on which the former proprietors may redeem such lands.

SECT. 4. Whensoever any lands as aforesaid, sold or to be sold, shall be redeemed or purchased, by the former proprietor, his or her agent or friend, acting in his or her behalf, such proprietor shall be exonerated from the payment of all costs, except those which have actually arisen upon the sale thereof, and in either case the release of the sheriff executed agreeably to the directions of the aforesaid first recited act, shall to all intents and purposes remit such former proprietor to, and reinstate him or her in their former estate in such land: And where such former sheriff shall have obtained a credit for any surveyor's fee as above mentioned, and shall not have had such survey actually made, in that case, the proprietor or proprietors as aforesaid, shall have the like remedy and proceedings against such sheriff and his securities, or either of them, as if the same had been redeemed before so sold; any law to the contrary thereof, notwithstanding.

Their remedy against the sheriffs for surveyors fees received, when no surveys have been made.

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. XXI.

An act repealing the act, intituled, "An act providing a sinking fund for the gradual redemption of the public debt."

(Passed December the 7th, 1792.)

Act establishing sinking fund repealed.

SECT. 1. *BE it enacted by the General Assembly*, That the act, intituled, "An act providing a sinking fund for the gradual redemption of the public debt," shall be and the same is hereby repealed.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XXII.

An act to repeal in part an act, intituled, "An act to prevent forestalling, regrating, engrossing, and public vendues.

(Passed October the 13th, 1792.)

So much of a former act as prohibits sales of goods at vendue repealed.

BE it enacted by the General Assembly, That so much of the act of Assembly passed in the year one thousand seven hundred and seventy-seven, intituled, "An act to prevent forestalling, regrating, engrossing, and public vendues," as prohibits the sale of goods, wares and merchandizes at public vendue, shall be, and the same is hereby repealed.

CHAP. XXIII.

An act for the relief of persons owning surveys returned to the register's office, on which no patents can issue in consequence of the erection of Kentucky into an Independent State.

(Passed December the 17th, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented, that many persons previous to the erection of Kentucky into an independent state, have returned into the register's office of this state, plats and certificates of surveys of land, lying in the now district of Kentucky, and which cannot now be passed into grants, by reason of the erection of the said district into an independent state: For remedy whereof,

Register to deliver certain surveys to the owners.

SECT. 2. *Be it enacted*, That the register of the land-office shall, and he is hereby required, on application of the owners of such surveys, to deliver the same to him or his assigns; and the treasurer is also required to refund to the owners of such surveys, the sums of money or certificates paid by such owner or owners for the said grants,

in order that they respectively be entitled to their locations in the state of Kentucky.

CHAP. XXIV.

An act authorising the general court to appoint a Clerk pro tempore.

(Passed December the 17th, 1792.)

Preamble.

SECT. 1. WHEREAS the office of clerk of the general court hath become vacant, and no appointment can be made of another clerk until the sitting of the next general court, whereby the public, as well as individuals, may sustain considerable injury: For remedy whereof,

A clerk pro tempore to be appointed.

SECT. 2. *Be it enacted by the General Assembly*, That it shall and may be lawful for any three judges of the general court, (the chief justice being one) and they are hereby authorised to appoint a clerk of the said court, who upon taking the oath required by law before any justice of the peace, shall continue in office until the end of the next session of Assembly, for which period the said court shall allow him a reasonable compensation for his services.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. XXV.

An act remitting certain Militia Fines.

(Passed December the 22d, 1792.)

Certain militia fines remitted.

SECT. 1. *BE it enacted by the General Assembly*, That all militia fines imposed since the commencement of the act, intituled, "An act remitting certain militia fines, and for other purposes," shall be, and the same are hereby remitted, pursuing in all cases the same rules and regulations as are prescribed by the above recited act, and

one other act, intituled, "An act to amend and explain an act, intituled an act remitting certain militia fines, and for other purposes." Any thing in any law to the contrary, notwithstanding.

SECT. 2. This act shall commence in force from and after the passing thereof.

CHAP. XXVI.

An act to authorise the executive to remit the damages against delinquent sheriffs in certain cases.

(Passed December the 22d, 1792.)

The executive authorised to remit damages on judgments against sheriffs in certain cases and on certain conditions.

SECT. 1. *BE it enacted by the General Assembly*, That the executive be, and they are hereby authorised and empowered, upon application to them made, to remit all damages accruing on any judgment which hath been or shall be obtained against any sheriff or collector of the public revenue, or their security or securities, their executors, administrators, or other legal representatives of them, or any of them, for taxes due prior to the first day of November, one thousand seven hundred and ninety-one, in all such cases as they shall think reasonable or just. *Provided*, That such sheriff or collector, or their security or securities, making application as aforesaid, shall pay the balance of the principal, interest and costs of such judgment, on or before the first day of July next, and shall produce to the executive a receipt or receipts from the auditor of public accounts, for the principal sum due on such judgment, together with the legal interest due thereon, and the costs.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XXVII.

An act to provide more effectually for the collection of the Public Taxes in certain cases.

(Passed December the 26th, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented, that in many of the counties in this Commonwealth, no person hath undertaken or would undertake the collection of the public taxes payable therein, so that the same still remain due and unpaid by the inhabitants thereof: For remedy whereof,

The executive empowered to appoint collectors of taxes in certain counties,

SECT. 2. *Be it enacted by the General Assembly*, That the governor, with advice of the council, shall and he is hereby required to appoint and commission proper persons to collect the taxes of every county in this Commonwealth where no collector hath been appointed, and undertaken the same by giving bond and security; and the person or persons so commissioned, shall before he or they proceed to the collection of the public taxes, give the like bond and security as is directed in the case of sheriffs, either in the court of the county in which he resides, in the court of the county of which he is appointed collector, or before the executive. And the collector or collectors to be qualified under this act, shall receive the same commissions, and be liable to the same remedies, fines and penalties as sheriffs are subject to for a failure in the collecting, accounting for, and paying the public taxes. Every bond taken pursuant to this act, shall be as effectual to all intents and purposes, as those entered into by sheriffs for the collection of the public taxes.

And commissioners to ascertain the taxable property.

SECT. 3. And whereas no commissioners have been appointed in several counties, and from the neglect of commissioners in returning a list of the taxable property in several other counties, by reason whereof no collection of the public taxes have been or could be made: For remedy whereof, *Be it further enacted*, That the governor, with the advice of council, shall appoint three discreet and proper persons in each county, coming within the purview of this act, whose duty it shall be to enquire into and ascertain the taxable property in such county, (where

the same hath not been done) on which arrears of taxes are still due; a copy of which return shall be delivered to the collector or collectors qualifying under this act, and one other copy transmitted to the auditor, from which list the collector shall proceed to collect the said taxes, and account for and pay the same. The commissioners appointed under this act, shall be liable to the same penalties, and be entitled to the same wages, as are prescribed for other commissioners, by an act, intituled, "An act prescribing the mode of ascertaining the taxable property within this Commonwealth, and of collecting the public revenue.

Suits to be commenced against delinquent commissioners of estates sequestered during the late war.

SECT. 4. *And be it further enacted*, That if any commissioner appointed by the governor and council, pursuant to the act passed in the year one thousand seven hundred and seventy-seven, intituled, "An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties," have failed to render a fair account upon oath of his disbursements and receipts of the estate committed to his management, or failed to pay the balance due on any account by him rendered, every such commissioner, or the executors or administrators of such as be dead, shall by order and direction of the executive be sued in the name of the Commonwealth, for the recovery of any balance which may remain in his or their hands.

Executive to take proper measures for the recovery of public debts; and make a report of their situation to the next assembly.

SECT. 5. *And be it further enacted*, That the executive be, and they are hereby authorised and required to cause all legal ways and means to be exerted without delay, for the speedy and effectual recovery of all debts and balances of every denomination, due and owing to the Commonwealth, and make particular report of the situation thereof to the next session of the General Assembly.

SECT. 6. This act shall commence and be in force from and after the passing thereof.

CHAP. XXVIII.

An act providing for the republication of the Laws of this Commonwealth.

(Passed December the 28th, 1792.)

Bill of rights and the constitution to be prefixed to the code of laws;

Acts to be published in the code with those which have been revised.

SECT. 1. *Be it enacted by the General Assembly*, That the declaration of rights, made by the representatives of the good people of Virginia assembled in full and free convention, which rights do pertain to them and their posterity, as the basis and foundation of government; and the constitution or form of government agreed to and resolved upon by the delegates and representatives of the several counties and corporations of Virginia, shall be prefixed to the code of laws as revised and enacted by the present session of the General Assembly; and that the following acts of Assembly shall be published from the inrolled bills in the same code, to wit:—"And act for conforming and better securing the titles to land in the Northern Neck, held under the right honorable Thomas lord Fairfax, baron of Cameron in that part of Great-Britain called Scotland"—"An act for confirming the grants made by his majesty within the bounds of the Northern Neck"—"An act to impower the freeholders of the several towns not incorporated, to supply the vacancies of the trustees and directors thereof"—"An act concerning wrecks"—"An act to authorise the delegates of this state in Congress, to convey to the United States in Congress assembled, all the right of this Commonwealth to the territory northwestward of the river Ohio"—"An act for securing to authors of literary works, an exclusive property therein for a limited time"—"An act to approve, confirm and ratify the compact made by certain commissioners appointed by the General Assembly of the state of Maryland, and commissioners appointed by this Commonwealth"—"An act for establishing religious freedom"—"An act to prevent frauds and perjuries"—"An act providing that wrongful alienations of land, shall be void so far as they be wrongful"—"An act to prevent the circulation of private bank notes"—"An act concerning aliens"—"An act directing that none shall be condemned without trial, and that justice

shall not be sold or deferred"—"An act forbidding and punishing affrays"—"An act against conspirators"—"An act against conveying or taking pretenced titles"—"An act prescribing the punishment of those who sell unwholesome meat or drink"—"An act for reforming the method of proceeding in writs of right"—"An act concerning partitions and joint rights and obligations"—"An act providing that actions popular prosecuted by collusion, shall be no bar to those which be prosecuted with good faith"—"An act declaring when the death of persons absenting themselves shall be presumed"—"An act for the relief of persons who have been or may be injured by the destruction of the records of county courts"—"An act to supply the defect of evidence of the royal assent to certain acts of Assembly under the former government"—"An act to authorise the establishment of fire companies"—"An act for the appointment of harbour masters, and declaring their duty"—"An act concerning estrays"—"An act concerning public roads"—"An act directing what persons shall be let to bail"—"An act for the suppression and punishment of riots, routs and unlawful assemblies"—"An act against usury"—"An act prescribing the method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names"—"An act to prevent the importation of convicts into this Commonwealth"—"An act concerning the credentials of the senators of this Commonwealth in Congress"—"An act allowing travelling expenses to the judges of the general court"—"An act against such as shall procure or commit wilful perjury, and against embracery"—"An act to regulate the inspection of hemp"—"An act to disable certain officers under the continental government, from holding offices under the authority of this Commonwealth"—"An act concerning the territory ceded by this Commonwealth to the United States"—"An act for safe keeping prisoners committed under the authority of the United States, into any of the jails of this Commonwealth"—"An act authorising the governor of this Commonwealth to convey certain lands to the United States, for the purpose of building a light-house"—"An act concerning homicide by misfortune"—"An act allowing a bill of exception to be sealed"—"An act concerning election of members of general assembly"—"An act concerning the election of members of the general assembly"—"An

act concerning the erection of the district of Kentucky into an independent state"—"An act against those who counterfeit letters or privy tokens to receive money or goods in other men's names"—"An act against the embezzling of records"—"An act concerning the benefit of clergy"—"An act to provide against the appropriation of money by resolution of the two houses of assembly"—"An act for the cession of ten miles square or any lesser quantity of territory within this state, to the United States in Congress assembled, for the permanent seat of the general government"—"An act for the relief of creditors against fraudulent devisees"—"An act concerning awards"—"An act concerning the southern boundaries of this state"—and, "An act for regulating the navigation of James river above the falls of the said river."

To be published in order as enacted, and the day of passing prefixed.

SECT. 2. The said laws shall be published in order, as they were enacted, and the day upon which they respectively passed, shall be prefixed to each act.

Sums of money and quantities of tobacco in the laws to be converted into dollars and cents in all process, entries, &c.

SECT. 3 Where any of the laws of this Commonwealth express any sum or sums of money in pounds, shillings, and pence, the clerks of the several courts within this Commonwealth, in all process, entries, and orders respecting the same, shall reduce such sum or sums of money into dollars and cents; and where any quantity or quantities of tobacco shall be expressed in the said laws, the clerk shall in like manner, reduce the same into dollars and cents, at the rate of two dollars per hundred weight.

Executive to cause the code to be printed, with an index and marginal notes; how to be disposed of.

SECT. 4. *And be it further enacted*, That the executive shall cause a sufficient number of copies of the laws of this Commonwealth as revised and enacted by the present session of Assembly to be printed, with a complete index and marginal notes, ten copies of which shall be delivered to the executive department, four copies to the clerk of each house of assembly, and one copy to each member of the present General Assembly, to each of the judges of the superior courts, to every justice of the peace, and the clerk of every court within this Commonwealth; the cost of which shall be paid out of the contingent fund. Those copies which shall be delivered to the executive, to the clerks of the two houses of Assembly, to the clerks of courts, and to the judges of the superior courts, shall be well bound in calf skin, and the other copies shall be bound in boards.

How to be bound.

Commencement of this act.

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. XXIX.

An act declaring what acts of the present session shall be immediately in force, and to suspend the operation of all other acts of the present session, which are of a public and permanent nature.

(Passed December the 28th, 1792.)

Operation of all public and permanent acts of this session suspended until 1st Oct. 1793.

SECT. 1. *BE it enacted by the General Assembly*, That the operation of all the acts passed during the present session of Assembly, which are of a public and permanent nature, shall be, and the same are hereby suspended until the first day of October one thousand seven hundred and ninety-three.

Certain acts excepted.

SECT. 2. *Provided nevertheless*, That nothing herein contained, shall be construed so as to suspend the operation of the following acts, viz. "An act for appointing electors to choose a president and vice-president of the United States"—"An act giving further time to the owners of entries on the western waters to survey the same"—"An act, for reducing into one act, the several acts concerning the court of appeals, and special court of appeals"—"An act for regulating the militia of this Commonwealth"—"An act for arranging the counties of this Commonwealth into districts, to choose representatives to congress"—"An act for appropriating the public revenue"—"An act remitting certain militia fines"—"An act giving further time to the owners of surveys, to return the same into the land office"—"An act for ascertaining the salaries to the officers of civil government"—"An act for establishing a bank in the town of Alexandria"—"An act empowering the executive to advance to the public printer, a sum of money for the purposes therein mentioned"—"An act, to amend the act, intituled, an act authorising the executive to direct the sheriffs to sell lands, the property of this Commonwealth"—"An act

for reducing into one, the several acts of assembly for the inspection of tobacco"—"An act to reduce into one, the several acts concerning the recovery of debts due to the public, and the sale of lands for judgments on behalf of the Commonwealth against public officers"—"An act to reduce into one, the several acts concerning the county and other inferior courts of this Commonwealth"—"An act repealing the act, intituled, an act providing a sinking fund for the gradual redemption of the public debt"—"An act reducing into one, the several acts concerning the establishment, jurisdiction and powers of district courts"—"An act to authorise the executive to remit damages in certain cases"—"An act, reducing into one, the several acts concerning the high court of chancery"—"An act for imposing a public tax for the year one thousand seven hundred and ninety-two"—"An act, reducing into one, the several acts concerning the general court, and prescribing the manner of proceeding therein in certain cases"—"An act, for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors"—"An act authorising the general court to appoint a clerk *pro tempore*"—"An act concerning coin"—"An act, reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies"—"An act, reducing into one, the several acts for regulating the inspection of flour and bread"—"An act for establishing a bank in the city of Richmond"—"An act to provide more effectually for the collection of the public taxes in certain cases"—and "An act declaring what remedy the Commonwealth shall have in certain cases."

Commencement of this act.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. XXX.

An act for appointing electors to choose a president and vice-president of the United States.

(Passed October the 10th, 1792.)

Arrangement of the counties in districts.

SECT. 1. *BE it enacted by the General Assembly*, That for the purpose of choosing twenty-one electors on behalf of this state, to vote for a president and vice-president of the United States, the several counties in this Commonwealth shall be allotted into twenty-one districts, in manner following, to wit: The counties of Northampton, Accomack, and Princess Anne, shall compose one district; the counties of New-Kent, Henrico, Charles City, James City, York, Warwick, and Elizabeth City, shall compose another district; the counties of Hanover, Caroline, and Louisa, shall compose another district; the the counties of Fluvanna, Albemarle, Amherst, and Goochland, shall compose another district; the counties of Orange, Culpeper, and Spotsylvania, shall compose another district; the counties of King and Queen, King William, Essex, Middlesex, Gloucester, and Mathews, shall compose another district; the counties of Norfolk, Nansemond, and Isle of Wight, shall compose another district; the counties of Sussex, Southampton, Surry, Prince George, and Greensville, shall compose another district; the counties of Brunswick, Dinwiddie, and Mecklenburg, shall compose another district; the counties of Amelia, Nottoway, Chesterfield, and Powhatan, shall compose another district; the counties of Prince Edward, Buckingham, Cumberland, and Lunenburg, shall compose another district; the counties of Halifax, Charlotte, and Pittsylvania, shall compose another district; the counties of Bedford, Campbell, Franklin, Henry, and Patrick, shall compose another district; the counties of Richmond, Northumberland, Lancaster, Westmoreland, and King George, shall compose another district; the counties of Prince William, Stafford, and Fairfax, shall compose another district; the counties of Fauquier, and Loudoun, shall compose another district; the counties of Frederick and Berkely, shall compose another district; the counties of Rockingham, Augusta, and Shenandoah, shall compose another district; the

counties of Bath, Botetourt, Rockbridge, Greenbrier, and Kanawha, shall compose another district; the counties of Hardy, Hampshire, Pendleton, Randolph, Harrison, Monongalia, and Ohio, shall compose another district; and the counties of Wythe, Montgomery, Washington, and Russell, shall compose another district.

Who are in vote.

SECT. 2. That the persons qualified by law to vote for members to the General Assembly, in each county composing a district, and in the cities and boroughs entitled to representation in the General Assembly, shall assemble at their respective courthouses, on the first Monday in November next, and on every first Monday in November, in every fourth year hereafter, and then and there vote for some discreet and proper person, being a freeholder, and *bona fide* resident in such district, for twelve months, as an elector for such district, to vote for a president and vice-president of the United States.

Elections, when and where to be held;

By whom.

SECT. 3. That the high sheriff of each county, or in case of sickness or inability to attend, one of the deputy sheriffs, and the mayor or serjeant of each corporation, being first duly sworn by a magistrate of the county or corporation to act impartially, and a certificate of the taking such oath, under the hand of the magistrate delivered to him, shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books, to be provided by the officer conducting the election, for which purpose he shall appoint so many writers as he shall think fit, who shall respectively take an oath to be by him administered, or make solemn affirmation, that they will take the poll faithfully and impartially. He shall deliver a poll book to each writer, who shall enter in distinct columns, under the name of the person voted for, the name of each voter, voting for such person. Like proclamation and proceeding shall be had for continuing and closing the poll in each county and corporation of a district, as prescribed by law, in the election of members to the General Assembly; and proclamation shall also be made at the courthouse door of the person having the greatest number of votes on the poll at the closing thereof.

How to be conducted.

Voters to be privileged from arrests

SECT. 4. Each voter shall be entitled to the same privilege from arrests, and be subject to the like penalty and forfeiture for failing to attend, and vote at such election.

as prescribed by law in the election of members to the General Assembly; such failure to attend to be discovered and proceeded upon in like manner, and under the same penalties, as is by law prescribed against such failures in the election of members to the General Assembly.

Sheriffs to meet, compare the polls and certify elections.

SECT. 5. Immediately after each election in a county or corporation, the clerk of the polls having first signed the same, and made oath to the truth thereof, a certificate of which oath, under the hand of a magistrate of the county, shall be subjoined to each poll, shall deliver the same to the sheriff or other officer, who conducted the election, and such sheriff or other officer, together with the respective sheriffs who conducted the poll of the several counties in the district, except in the case of the disability or sickness of such sheriff, then any other sheriff of the county in which such sickness or disability may happen, shall, on the Monday next after the said election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the election in their several counties and corporations, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes, in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such election, under their hands and seals, in manner and form following, to wit:

Forms of the certificate.

"We, A. B. sheriff of county, or deputy she-
"riff, (as the case may be) C. D. sheriff of
"county, and E. F. mayor or serjeant (as the case may
"be, of the city or borough of (and so on, recit-
"ing the name of the sheriff or other officer, whether
"principal or deputy, of each county, city, or borough
"in the district) composing one entire district entitled
"by law to appoint an elector to vote for a president and
"vice-president of the United States, do hereby certify
"and make known, that at an election held on the first
"Monday of November, at the courthouses of our re-
"spective counties, cities, and boroughs, pursuant to law,
"the voters qualified to vote for an elector to choose a
"president and vice-president of the United States,
"caused to be chosen one person, to wit: G. H. to re-
"present the said district, as an elector to vote for a pre-
"sident and vice-president of the United States. Given

"under our hands and seals, this day of
"one thousand seven hundred and ."

Certificates to be transmitted to the governor, and duplicates delivered to the electors.

SECT. 6. Two fair duplicates of such certificate and return shall be made by the said sheriffs and other officers, under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council, within fifteen days, under the penalty of three hundred dollars, upon such sheriff or other officer holding such election, in case of failure herein; to be recovered by motion in any court of record by the attorney-general, to the use of the Commonwealth. And the governor and council shall thereupon advertise in the public gazette, the names of the persons so elected, who shall assemble in the city of Richmond on the first Wednesday in December next, and on every first Wednesday in the month of December in every fourth year thereafter, to vote for a president and vice-president of the United States. Each elector chosen pursuant to this act, and failing to attend and vote for a president and vice-president of the United States at the time and place herein directed, shall, except in cases of sickness or any other unavoidable accident, forfeit and pay six hundred dollars; to be recovered by the attorney-general, to the use of the Commonwealth, by action of debt, bill, plaint, or information, in any court of record.

Names of electors to be published in the gazette.

When and where they are to meet and vote.

Poll books to be delivered to the clerks of the courts to be recorded.

SECT. 7. The said sheriffs and other officers shall, under the penalty of one hundred and fifty dollars, to be recovered on motion by the attorney-general, to the use of the Commonwealth, in manner aforesaid, deliver to the clerks of the respective counties, cities, or boroughs, within ten days after making their returns as aforesaid, the original poll-books, to be by such clerks entered of record, under the like penalty for failure as for failing to record the poll-books taken at the election of members to the General Assembly, and recoverable in like manner.

Penalty on sheriffs for refusing to take the poll, or taking in other manner than herein directed, &c

SECT. 8. Any sheriff, deputy sheriff, or other officer, refusing to take the poll, when he shall be required by a candidate or person qualified to vote for members to the General Assembly, or taking it in other manner than is herein before prescribed, or making or signing a false certificate or return of election as herein before directed, or making any erasure or alteration in the poll-books, or

refusing to suffer any candidate or person qualified to vote, at his own expence, to take a copy of the poll-books, shall forfeit and pay three hundred dollars; which penalty may be recovered with costs, in action of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the Commonwealth.

On candidates for bribing voters.

SECT. 9. Any candidate or other person in his behalf, who shall directly or indirectly give or agree to give any voter or pretended voter, money, meat, drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay fifteen hundred dollars for each offence; to be recovered with costs, by action of debt, to the use of any person who will prosecute for the same.

Allowances to electors;

SECT. 10. *And be it further enacted*, That the electors so appointed to choose a president and vice-president of the United States, shall be allowed for their travelling expences, seven cents per mile, and ferriages, and for their daily attendance, one dollar and sixty-seven cents, and be entitled to the same privileges from arrests as members to the General Assembly. The same allowance shall be made to the sheriffs and other officers for their travelling expences and attendance for comparing the polls.

privileged from arrests.

No person to vote more than once for the same candidate.

SECT. 11. *And be it further enacted*, That no person shall be allowed to vote more than once in the same year, for any elector to be chosen pursuant to this act.

Repealing clause.

SECT. 12. Every act coming within the purview of this act, is hereby repealed.

Commencement of this act.

SECT. 13. This act shall commence and be in force from and after the passing thereof.

CHAP. XXXI.

An act granting a sum of Money for the Capitol.

(Passed December 26, 1792.)

Money to be paid to the directors of the public

SECT. 1. *BE it enacted by the General Assembly*, That the sum of eight hundred and eleven pounds six shillings and one penny half-penny, shall be paid to the directors

of the public buildings, for the purpose of discharging the debts due by them; and the further sum of two thousand pounds, together with the debts due by Archibald Cary, deceased, and Moses Austin and Company, when collected by the said directors, shall be appropriated, and applied by the said directors, for the purpose of finishing the inside of the capitol, and erecting steps and platforms, and the directors are hereby required to let the said work to the lowest bidder, upon such terms as shall be most beneficial to the Commonwealth, after giving notice thereof in the Public Gazette, at least one month previous to the time appointed for that purpose. buildings; how to be applied. The work to be let to the lowest bidder.

SECT. 2. The auditor of public accounts, shall, upon orders from the executive, issue his warrants to the said directors of the public buildings, for the aforesaid sums of money, as the same shall become necessary. Warrants when to be issued.

SECT. 3. This act shall commence in force from and after the passage thereof.

CHAP. XXXII.

An act to declare the time when certain Laws shall commence in force.

(Passed December 8, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That all and singular the acts and laws herein after recited, which have been enacted during the present session of the General Assembly, shall, and the same are hereby declared to commence and be in force from and after the passing of this act; that is to say: An act, intituled, An act concerning a warrant issued to John Cox: An act, intituled, An act concerning Henry Stratton: An act, intituled, An act directing duplicates of a warrant and certificates to be issued to James Upshaw, junior, Christopher Robertson, and others: An act, intituled, An act concerning Thomas Newton, junior: An act, intituled, An act authorising the sale of land in the county of Prince Edward, in certain cases: An act, intituled, An act concerning John Fleming, and others: And, an act, intituled, An act to repeal in part, An act, intituled, An Certain acts to be in force from the passing thereof.

act to prevent forestalling, regrating, engrossing, and public vendues.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XXXIII.

An act concerning the Seal of the High Court of Chancery.

(Passed November 3, 1792.)

Money to be paid to the chancellor for a seal for the court of chancery.

SECT. 1. *BE it enacted by the General Assembly*, That it shall be lawful for the auditor of public accounts, and he is hereby directed to issue his warrant on the treasurer, in favor of George Wythe, judge of the high court of chancery, for the sum of twenty pounds, to be applied in aid of a sum formerly appropriated for procuring a seal for the said high court of chancery. The amount of the warrant, so to be issued, shall be paid out of any money in the treasury.

SECT. 2. This act shall commence in force from and after the passing thereof.

CHAP. XXXIV.

An act empowering the Executive to advance to the Public Printer a sum of money for purposes therein mentioned.

(Passed November 24, 1792.)

Money to be advanced to the public printer to procure paper for the revisal.

SECT. 1. *BE it enacted by the General Assembly*, That the executive be and are hereby empowered to advance to the public printer, out of the public treasury, such sum or sums of money as they may deem necessary, to purchase a sufficient quantity of paper for printing the revised laws of this Commonwealth.

SECT. 2. This act shall commence in force from and after the passing thereof.

CHAP. XXXV.

An act for the relief of owners of Entries in the county of Henry.

(Passed November 17, 1792.)

Preamble

SECT. 1. WHEREAS by an act passed in October one thousand seven hundred and eighty-nine, intituled, An act for supplying the loss of the entry book and field notes of the surveyor of the county of Henry, it is enacted that the executive appoint commissioners for taking depositions respecting the same, to be subject to the directions of a future Assembly. *And whereas*, in conformity to the said act, sundry depositions have been returned to the executive,

Surveyors of Henry and Patrick to record certain depositions respecting the loss of an entry book and field notes, and to survey the entries. Plats thereof, when to be returned.

SECT. 2. *Be it therefore enacted*, That the surveyor of Henry and Patrick counties, after application by him made to the executive for the said depositions, which they are hereby requested to furnish him, shall forthwith record the same in the entry books of the counties in which the lands respectively lie, which shall be as valid as if the said entries or field notes had not been lost: And it shall be lawful for the surveyors of the said counties to survey the entries aforesaid, and return plats thereof to the register of the land-office, who is hereby authorized and required to receive the same, and issue grants therefor in the same manner, and under the like regulations as patents were issued on such entries, at the time of the loss of the said entry book. *Provided*, that the same be returned on or before the first day of September, any law to the contrary notwithstanding; and saving to the claimants of the said land, by prior title, the right of contesting the same.

Rights of others saved.

SECT. 3. This act shall commence in force from and after the passing thereof.

CHAP. XXXVI.

An act to facilitate the intercourse of the inhabitants of this Commonwealth with the State of Kentucky.

(Passed November 17, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to the present General Assembly, that opening a waggon road from the blockhouse in the western extremity of the county of Washington, to the top of Cumberland mountain, in the county of Russell, (now Lee) being where the road from the state of Kentucky terminates, will be of great public utility in facilitating the intercourse from the extreme southwestern parts of this state with our eastern brethren at the seaport towns, and as the same, on account of the length of the way and the many difficulties attending the opening thereof, cannot be cleared by the ordinary method prescribed for opening roads; and as this Assembly are at all times willing to contribute every encouragement to such designs as are represented to be of general utility, as far as is consistent with prudence and good œconomy.

Commissioners to view and mark a way for a road from the blockhouse in Washington, to the top of Cumberland mountain. Their report to be made to the next Assembly.

SECT. 2 *Be it enacted*, That William Tate, John Anderson, Charles Cox, Walter Preston, James Fulkerson, Thomas Berry and Thomas Wallen, gentlemen, be, and they are hereby appointed commissioners, to explore, view, and mark out the best and most eligible way for a waggon road, from the said block-house, in the county of Washington, to the top of Cumberland mountain, in the said county of Russell, (now Lee) and to report to the next General Assembly, their opinion, with respect to the practicability of said road, the distance between the said places, and also an estimate of the expence which would necessarily be incurred in opening a waggon road as aforesaid.

CHAP. XXXVII.

An act authorising and directing the Court of the county of Rockingham, to levy a sum of Money for the purpose therein mentioned.

(Passed October 24, 1792.)

Preamble.

SECT. 1. WHEREAS under a law of this Commonwealth, passed at the October session of the General Assembly, in the year one thousand seven hundred and eighty, intituled, An act for supplying the army with clothes, provisions, and waggons, the court of the county of Rockingham, to comply with the requisitions of the said law, appointed a certain John Hinton to purchase a waggon and team, which purchase the said John Hinton accordingly effected, but departed this life without having received the full amount of the purchase money. *And whereas* the decedent, by last will and testament, hath nominated Benjamin Hinton his executor,

The court of Rockingham to levy on the county a sum of money for the executor of John Hinton;

SECT. 2. *BE it therefore enacted by the General Assembly*, That the magistrates of the said county of Rockingham, shall, at some court to be holden for the same, in the months of April, May, or June next, having first settled and ascertained the balance remaining due to the estate of the deceased, proceed to assess and levy the amount thereof upon the taxable property within the said county, or be liable, on failure thereof, to the same penalties as are imposed by the said recited act.

To be collected by the sheriff.

SECT. 3. The sheriff or collector of the levy or assessment to be made in pursuance of this act, is hereby empowered and directed to make the collection, and to distrain for the same on refusal or neglect of payment; and shall receive a commission for so doing as for collecting taxes; and on the completion thereof, shall pay the balance due to the estate of the decedent, as the same may have been ascertained by the court, to Benjamin Hinton, the executor.

Remedy against him for failing to pay it.

SECT. 4. And in case such sheriff or collector shall fail or refuse to account for and pay the levy or assessment directed by the said court, by the time limited, he shall be liable to like penalties as are imposed by the said recited act, to be recovered in the like manner

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. XXXVIII.

An act authorising and directing the Courts of the counties of Hampshire and Hardy, to levy a sum of Money for the purpose therein mentioned.

(Passed December the 21, 1792.)

The courts of Hampshire and Hardy to levy on their counties a sum of money for William Johnson.

SECT. 1. *BE it enacted by the General Assembly*, That the courts of each of the counties of Hampshire, and Hardy, shall, and they are hereby respectively empowered and required, upon application to them made, for that purpose, to proceed to adjust and settle the claim of William Johnson, for a waggon and team purchased and paid for by him in the year one thousand seven hundred and eighty-one, for the use of the said county of Hampshire, pursuant to the directions of an act of Assembly intituled, An act for supplying the army with clothes, provisions, and waggons. When the said claim shall be liquidated by the said courts, it shall be lawful for the magistrates thereof to levy and assess the amount on the tithable persons of the said counties, in proportion to the numbers in each.

To be collected by the sheriffs.

SECT. 2. *And be it further enacted*, That the sheriffs or collectors of the levies or assessments to be made in pursuance of this act, are hereby empowered and directed to make the collections, and to distrain for the same, on refusal or neglect of payment, and shall receive a commission for so doing as for collecting taxes; and on the completion thereof, shall pay the balance due to the said William Johnson, as the same may have been ascertained by the said courts.

Remedy against them for failing to pay the money.

SECT. 3. In case any such sheriff or collector shall fail or refuse to account for and pay the levies or assessments directed by the said courts, by the time limited, they shall be liable to judgment on motion in the courts

of the said counties of Hampshire and Hardy, upon receiving ten days previous notice of any such motion.

Penalty on the justices for failing to make the levy.

SECT. 4. If the courts of the said counties of Hampshire and Hardy, directed to meet in pursuance of this act, shall fail so to do, or meeting, shall fail to make or order the levies or assessments hereby directed to be made, every justice qualified to act in his office in such counties, shall forfeit and pay three pounds.

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. XXXIX.

An act authorising and directing the court of the county of Southampton, to levy a sum of money for the purposes therein mentioned.

(Passed December 17, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to this present General Assembly, that a certain Lewis Joyner, did, from the year one thousand seven hundred and eighty-two, to the year one thousand seven hundred and eighty-five, inclusive, act as one of the churchwardens of the parish called Nottoway, in the county of Southampton, during which time he made considerable advances to the poor of the said parish, the amount of which is still due to him, from the failure of the court of the said county, to make provision for paying the same.

The court of Southampton to levy a sum of money on the county for Lewis Joyner.

SECT. 2. *Be it therefore enacted*, That the magistrates of the said county of Southampton, shall, at some court to be holden for the same, in the months of March or April next, having first settled and liquidated the claim of the said Lewis Joyner, including interest thereon, proceed to levy and assess the amount thereof, on the tithable persons residing in that part of the said county of Southampton, which composed the parish of Nottoway.

To be collected by the sheriff.

SECT 3. The sheriff or collector of the levy or assessment to be made in pursuance of this act, is hereby empowered and directed to make the collection, and to distrain for the same, on refusal or neglect of payment, and

shall receive a commission for so doing, as for collecting taxes; and on the completion thereof shall pay the balance due to the said Lewis Joyner, as the same may have been ascertained by the said court.

Remedy against him for failing to pay it.

SECT. 4. In case such sheriff or collector shall fail or refuse to account for and pay the levy or assessment directed by the said court, by the time limited, he shall be liable to judgment on motion in the court of the said county of Southampton, upon his receiving ten days previous notice of such motion.

Penalty on the justices for failing to lay the levy.

SECT. 5. If the court of the said county of Southampton, directed to meet in virtue of this act, shall fail so to do, or meeting, shall fail to make or order the levy or assessment hereby directed to be made, every justice qualified to act in his office in such county, shall forfeit and pay ten pounds.

SECT. 6. This act shall commence and be in force from and after the passing thereof.

CHAP. XL.

An act authorising the court of the county of Halifax to appoint a person or persons to convey titles to certain lands in the said county.

(Passed November 28, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to the General Assembly, that Matthew Sims, late sheriff of the county of Halifax, did, (in pursuance of an act, intituled, An act to remedy abuses in the manner of selling lands for the payment of public taxes,) sell sundry tracts or parcels of land within the county aforesaid, for the taxes accruing in the years one thousand seven hundred and eighty-seven, and one thousand seven hundred and eighty-eight; and that the said Matthew Sims, departed this life before surveys of the lands so by him sold could be made; and the purchasers thereof have of course been unable to obtain

legal titles to the same; *Be it enacted*, that the court of the said county of Halifax shall, and may nominate and appoint some discreet and fit person or persons to execute the necessary deed or deeds for conveying the lands sold as aforesaid, within the said county, to the respective purchaser or purchasers thereof; which said deed or deeds, executed by the person or persons appointed under the authority of this act, shall be deemed and considered as valid, and binding in the law as if the said Matthew Sims had executed the same in his life-time: *Provided always*, that no person appointed by the county court of Halifax for the purpose aforesaid, shall proceed to act under such appointment, until the same shall have been certified to him by the clerk of the said court under the seal of his office, and shall have been entered of record therein.

Court of Halifax to appoint a person or persons to convey certain lands sold by a former sheriff.

Proviso.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XLI.

An act concerning the Nottoway tribe of Indians.

(Passed November 12, 1792.)

SECT. 1. WHEREAS it is represented to this present General Assembly, by the Nottoway tribe of Indians, residing in the county of Southampton, that for their better support they did in the year one thousand seven hundred and seventy-two, lease to certain persons, a considerable tract of land lying in the said county, which lease will expire in the year one thousand seven hundred and ninety-three; and in order to raise a fund for their future support, the said tribe of Indians have petitioned this Assembly for a law to pass, authorising a sale of the said tract of land. and that trustees may be appointed to join them in the conveyance thereof;

Preamble

SECT. 2. *Be it therefore enacted*, That James Wilkinson, John T. Blow, Thomas Vaughan, Thomas Edmunds, John Taylor, Thomas Ridley and Robert Goodwin, gentlemen, are appointed trustees for the said Indians.

Trustees appointed.

The Indians may sell their lands with the consent of the trustees.

SECT. 3. It shall be lawful for the said tribe of Indians, under the direction and with the approbation of the said trustees, or any five of them, to proceed to sell the said tract of land upon twelve months credit; upon which sale being made, the said trustees, or any five of them, shall be, and they are authorised and empowered to join the said tribe of Indians, in conveying the same to the purchaser or purchasers, in fee.

Purchase money how to be secured and applied by them.

SECT. 4. It shall moreover be the duty of the said trustees, to take bonds and sufficient security, payable to themselves and their successors, for the amount of the purchase money for the said land, and so soon as the same shall be paid into their hands, it shall be lawful for them or any five of them, to lay out such amount in the purchase of public securities, and to draw the interest arising therefrom, and apply the same, if sufficient, if not, so much of the principal as the said trustees or any five of them may deem necessary, for the maintenance and support of each of the said Indians, so long as there be any of the said tribe living; and should the said tribe become extinct, the said trustees, or the survivors or survivor of them, shall thereupon pay so much of the purchase money and interest, as shall remain unapplied, into the public treasury.

Vacancies in the trustees how to be supplied.

SECT. 5. *And be it further enacted*, That upon the death, resignation, or removal out of the said county, of any of the said trustees, it shall and may be lawful for the remaining trustees, or a majority of them, to supply the vacancy occasioned by such death, resignation, or removal, and the persons so appointed by the said trustees, shall have as full power and authority to act as if they had been herein particularly mentioned.

CHAP. XLII.

An act empowering the county court of Northampton to appoint trustees for the purpose of protecting the rights of the Gingaskin tribe of Indians.

(Passed December 11, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that it will contribute to the interest of the Gingaskin tribe of Indians, resident in the county of Northampton, if trustees were appointed to dispose of their lands in the said county, for their support:

Trustees to be appointed to dispose of the Indians' land and divide the profits amongst them.

SECT. 2. *Be it therefore enacted*, That the court of the county of Northampton shall be, and they are hereby empowered and required to appoint five trustees, whose duty it shall be, or a majority of them, to meet at some convenient place within one month after their appointment to make such disposition, by lease or otherwise, of the lands aforesaid, as to them shall seem most proper; and to distribute the profits arising therefrom in such proportions amongst the said Indians, as they, or a majority of them, shall think just and right. *Provided*, that such lease or leases do not exceed the term of seven years.

Proviso.

Vacancies in the trustees how to be supplied.

SECT. 3. *And be it further enacted*, That in case of vacancy of any of the said trustees, by death, resignation or otherwise, the said justices or their successors shall supply the vacancy occasioned thereby, and the said trustees, when appointed, shall have the same power and authority as if particularly named in this act.

Disputes between the Indians and their trustees how to be settled.

SECT. 4. And the said justices, or their successors, shall also from time to time settle and determine any dispute that may arise between the trustees and the said Indians.

SECT. 5. This act shall commence in force from the passing thereof.

CHAP. XLIII.

An act to amend the several acts for opening a waggon road from the state road to the mouth of the Little Kanawha.

(Passed December 7, 1792.)

Preamble.

SECT. 1. WHEREAS the taxes due in each of the counties of Harrison, Monongalia, Ohio, and Randolph, prior to the year one thousand seven hundred and ninety, were, by an act of Assembly, passed on the twelfth day of December, one thousand seven hundred and eighty-nine, appropriated for the purpose of opening a waggon road from the state road to the mouth of the Little Kanawha: And it is represented that considerable balances of the said taxes so appropriated, are still due from the sheriffs of the said counties, who cannot be compelled to pay the same in the mode prescribed by law:

Remedy against sheriffs failing to account for taxes appropriated to the clearing the road.

SECT. 2. *Be it therefore enacted by the General Assembly*, That it shall and may be lawful for the commissioners appointed to superintend the opening of the said road, to obtain a judgment or judgments against all or any of the sheriffs or collectors, or their securities, of the taxes so as aforesaid, appropriated for any balance or balances thereof, now due from him or them, by motion in any court of record within this Commonwealth, and to obtain executions for the same in like manner and under the same rules and regulations as are prescribed in the case of executions issued in behalf of the Commonwealth.

Proviso.

Provided always, that every such sheriff or collector, or their securities, shall have ten days previous notice, in writing, of every such motion.

The sum to be recovered not to exceed the original appropriation.

SECT. 3. *Provided also*, That the balances so to be recovered, or received from the said sheriffs, shall not exceed the original appropriation of two thousand pounds.

CHAP. XLIV.

An act for giving certain powers to the commissioners of the road, from Morgan town to the mouth of Fishing creek.

(Passed December 19, 1792.)

Remedy against sheriffs failing to pay taxes appropriated to the clearing the road.

SECT. 1. *BE it enacted by the General Assembly*, That the commissioners, or a majority of them, appointed by the act, intituled, An act appropriating certain public taxes to the opening a waggon road from the state road to the mouth of the Little Kanawha, and for other purposes, for the purpose of opening a waggon road from Morgan's town to Fishing creek, on the Ohio river, shall have the same power and authority, for the completion of the collection of the taxes appropriated for the purpose of opening the said road, as is given by an act of the present session of Assembly, to the commissioners appointed to superintend the opening a waggon road from the state road to the mouth of the Little Kanawha.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XLV.

An act to appoint commissioners for certain purposes in the county of Halifax.

(Passed October 13, 1792.)

Commissioners to view the lands at Irvin's and Boyd's ferries, and report which is the best situation for a tobacco inspection.

SECT. 1. *BE it enacted by the General Assembly*, That Thomas Watkins, David Clark, George Carrington, Henry Coleman, William Hudson and William Payne, junior, gentlemen, or any three of them, shall. and they are hereby required to examine the situation of the lands at Irvin's and Boyd's ferries in the county of Halifax, and make report to the next Assembly which of them is the most eligible and convenient place for establishing an inspection of tobacco.

CHAP. XLVI.

An act appointing trustees for the sale of certain lands, the property of the Tinkling Spring Congregation, in the county of Augusta.

(Passed December 6th, 1792.)

Preamble.

SECT. 1. WHEREAS it has been represented to the General Assembly, that a number of persons resident in the county of Augusta, called and known by the name of the Tinkling Spring Congregation, purchased from a certain William Thompson, a tract or parcel of land for the purpose of erecting thereon a house of worship, and caused the same to be vested in trustees for their benefit, all of whom are since dead; And whereas the house of worship erected thereon as aforesaid, has nearly gone to decay, and it is the wish of the said congregation to dispose of such part of the said land, as may be sufficient to repair the same, or build others:

Trustees appointed to sell part of the lands.

SECT. 2. *Be it therefore enacted by the General Assembly*, That Walter Davis, James Steel, Andrew Fulton, Benjamin Stuart, James Frazer, Joseph Bell, and Robert Stuart, gentlemen, belonging to the said congregation, or a majority of them, are hereby appointed trustees, with power to dispose of and convey by deed duly executed, such part of the said tract or parcel of land, as in their opinion, may be deemed necessary for the purpose aforesaid.

Vacancies how to be supplied.

SECT. 3. *And be it further enacted by the General Assembly*, That the said trustees or a majority of them, shall have power from time to time, to fill up vacancies occasioned in their number, either by death, change of residence, or resignation, which trustees so appointed, shall have the same power and authority, as if they had been particularly named in this act.

Right of former trustees transferred to those appointed by this act.

SECT. 4. The right to the said tract or parcel of land, as vested in the trustees appointed by the said congregation, shall revive and continue in the trustees appointed by this act, and their successors, chosen as herein directed, in the like quantity and quality, as conveyed to and enjoyed by the original trustees.

CHAP. XLVII.

An act authorising the sale of lands in the county of Prince Edward in certain cases.

(Passed October 25, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to this present General Assembly, That William Bibb, sheriff of the county of Prince Edward, for the years one thousand seven hundred and eighty-eight, and one thousand seven hundred and eighty-nine, did some time within those years remove to the state of Georgia, whereby no sale of lands could legally be made to discharge the taxes due on the said first mentioned year; and that his deputy sheriffs will thereby be much involved and injured: For remedy whereof,

John Watson authorized to sell certain lands the taxes on which are unpaid.

SECT. 2. *Be it enacted*, That John Watson shall be, and he is hereby authorised and required, to sell and convey so much of the lands in the said county, whereon sufficient distress cannot be made for that purpose, as will discharge the taxes due for such lands in the said year one thousand seven hundred and eighty-eight, in like manner and under the same rules, allowance, regulations and restrictions, as directed and prescribed by law for high sheriffs.

CHAP. XLVIII.

An act appointing trustees in the county of Prince Edward, for the purposes therein mentioned.

(Passed December 8, 1792.)

Preamble.

SECT. 1. WHEREAS the glebe lands and other property, belonging to the episcopal church, in the parish of Saint Patrick, in the county of Prince Edward, were sold in pursuance of an act of the General Assembly in that case made, and the money arising from the sales thereof, has remained in the hands of individuals in the said county, from the period of the said sale.

Trustees appointed to recover the money raised by the sale of the glebe, &c.

SECT. 2. *Be it therefore enacted by the General Assembly*, That Thomas Scott, Charles Allen, John Morton, William Wooten and James Morton, gentlemen, or any three of them, be, and are hereby appointed trustees, with full power to receive, sue for, and recover the same, from all and every person and persons whomsoever, their heirs, executors, and administrators, and the same when so received, to retain in their hands subject to such appropriation as a court of the said county, composed of twelve magistrates at least, shall consider most just and beneficial for their said county

The money how to be disposed of.

SECT. 3. If the said trustees, or those of them who shall act, shall fail to account to the said court for all or any monies which they may receive, pursuant to this act, in that case the said court may recover such money by motion to the district court of Prince Edward, against such trustees, on giving them ten days previous notice of such motion.

Summary remedy against the trustees if they fail to account.

SECT. 4. This act shall commence in force from the passing thereof.

CHAP. XLIX.

An act for dividing the county of Russell into two distinct counties.

(Passed October 25, 1792.)

Russell county divided, and Lee formed.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the thirteenth day of May next, all that part of the county of Russell, which lies westwardly of a line beginning on the top of Clinch mountain, one mile eastwardly of big Maukason gap, thence a direct course to the mouth of Stock creek, thence up the same to Powell's mountain, thence due north to the Kentucky boundary, shall form one distinct county, and be called and known by the name of Lee; and the residue of the said county, shall retain the name of Russell.

Court day.

SECT. 2. A court for the said county of Lee, shall be held by the justices thereof on the second Tuesday in every month, after the same shall take place, in like man-

ner as is provided by law for other counties, and shall be by their commissions directed.

First meeting of the justices, when and where;

SECT. 3. The justices to be named in the commission of the peace for the said county of Lee, shall meet at the house of Isaac Chrisman in the said county, upon the first court day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at, or as near the centre thereof as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such case the appointment shall be postponed until some court day when a majority shall be present.

To appoint a clerk and fix on a place for holding courts

Public due and fees in new county how to be collected.

SECT. 4. *Provided also, and be it further enacted*, That it shall be lawful for the sheriff of the county of Russell, to collect and make distress for any public dues and officers' fees remaining unpaid by the inhabitants thereof at the time the said county of Lee shall take place, and shall be accountable for the same, in like manner as if this act had not been made.

First sheriff, how to be appointed.

SECT. 5. The governor, with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are by law prescribed for other sheriffs.

SECT. 6. The court of the said county of Russell shall have jurisdiction of all actions and suits which shall be depending before them when the said county of Lee takes place, and shall try and determine the same, and award execution thereon.

New county, to what senatorial district to be annexed.

SECT. 7. In all future elections of a senator, the said county of Lee shall be of the same district as the said county of Russell.

CHAP. L.

An act for dividing the county of Culpeper.

(Passed December 4, 1792.)

Culpeper county divided, and Madison formed.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the first day of May next, all that part of the county of Culpeper, within the following bounds, to wit: Beginning at the mouth of Robinson river, thence up the same to the mouth of Crooked run, thence up the said run to the mountain road, where Tennant's church formerly stood, thence a straight course to the head of Hugh's river in the Blue ridge, thence the same course continued to the top of the ridge, and to the line of Shenandoah county, thence westwardly on the top of the ridge with the lines of the counties of Shenandoah and Rockingham, to the line of Orange county, thence with the line of Orange to the beginning, shall form one distinct county, and be called and known by the name of Madison.

Court day.

SECT. 2. A court for the said county of Madison shall be held by the justices thereof on the fourth Thursday in every month after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commissions directed.

First meeting of the justices, when and where.

SECT. 3. The justices to be named in the commission of the peace for the said county of Madison, shall meet at the house of John Yager, junior, in the said county, upon the first court day after the said county shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed, to appoint any place for holding courts as they shall think proper. *Provided always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being

To appoint a clerk, and fix on a place for holding courts

at the time out of the county, in such case the appointment shall be postponed until some court-day when a majority shall be present.

Public dues and fees in new county, how to be collected.

SECT. 4. It shall be lawful for the sheriff of the county of Culpeper to collect and make distress for any public dues and officers fees which shall remain unpaid by the inhabitants of the said county of Madison, at the time the said county shall take place, and shall be accountable for the same in like manner as if this act had never been made.

First sheriff, how to be appointed.

SECT. 5. The governor, with the advice of council, shall appoint a person to be first sheriff of the said county of Madison, who shall continue in office during the term and upon the same conditions as are by law appointed for other sheriffs.

SECT. 6. The court of the said county of Culpeper shall have jurisdiction of all actions and suits depending before them at the time the said county of Madison takes place, and shall try and determine the same, and award execution thereon.

New county, to what districts annexed.

SECT. 7. The said county of Madison shall remain in the same district with Culpeper, for which district courts are holden in Fredericksburg, to all intents and purposes as if this act had not been made. In all future elections of a senator, the said county of Madison shall be of the same district as the said county of Culpeper.

CHAP. LI.

An act for dividing the county of Wythe.

(Passed November 7, 1792.)

Wythe county divided, and Grayson formed.

SECT. 1. *BE it enacted by the General Assembly*, That from and after the first day of May next, all that part of the county of Wythe, within the following bounds, to wit: Beginning in Washington line, where it joins the Iron mountain, thence along the said mountain to a spur of the same, that forms Ewing's mountain, keeping the ridge that divides the waters of Cripple and Bush creeks to the top of the said mountain; thence a straight course to the Poplar Camp mountain by Rose's mill; thence to

the mouth of Greasy creek; thence a straight course to Montgomery line, shall form one distinct county, and be called and known by the name of Grayson.

Court day.

SECT. 2. A court for the said county of Grayson, shall be held by the justices thereof on the third Tuesday in every month after the same shall take place, in like manner as is provided by law for other counties, and shall be by their commission directed.

First sheriff how to be appointed.

SECT. 3. The governor with advice of the council, shall appoint a person to be first sheriff of the said county, who shall continue in office during the term, and upon the same conditions as are appointed by law for other sheriffs.

First meeting of the justices, when and where.

SECT. 4. The justices to be named in the commission of the peace for the said county of Grayson, shall meet at the house of William Bouran, in the said county, upon the first court day after the same shall take place, and having taken the oaths prescribed by law, and administered the oath of office to, and taken bond of the sheriff according to law, proceed to appoint and qualify a clerk, and fix upon a place for holding courts in the said county, at or as near the centre thereof, as the situation and convenience will admit, and thenceforth the said court shall proceed to erect the necessary public buildings at such place, and until such buildings be completed to appoint any place for holding courts in the said county, as they shall think proper. *Provided always*, that the appointment of a place for holding courts, and of a clerk, shall not be made unless a majority of the justices of the said county be present; where such majority shall have been prevented from attending by bad weather, or their being at the time out of the county, in such cases the appointment shall be postponed until some court day when a majority shall be present. *Provided also*, that it shall be lawful for the sheriff of the said county of Wythe, to collect and make distress for any public dues or officers fees which shall remain unpaid by the inhabitants thereof, at the time the said county of Grayson takes place, and shall be accountable for the same in like manner as if this act had not been made.

To appoint a clerk and fix on a place for holding courts

Public dues and fees in new county, how to be collected.

SECT. 5. The court of the said county of Wythe shall have jurisdiction of all actions and suits, which are depending before them at the time the said county of Grayson shall take place, and shall try and determine the same, and award execution thereon.

SECT. 6. The said county of Grayson shall be included in the district with the said county of Wythe, for which a court is to be holden at Washington courthouse. In all future elections of a senate, the said county of Grayson shall be of the same district as the county of Wythe. To what districts to be annexed.

CHAP. LII.

An act to revive and amend in part an act for increasing the reward for killing wolves in certain counties.

(Passed November 29, 1792.

SECT. 1. *Be it enacted by the General Assembly*, That the act to revive in part an act intituled an act to increase the reward for killing wolves in certain counties, which will expire at the end of the present session, shall be, and the same is hereby revived, so far as the same respects the counties of Hampshire, Albemarle, Amherst, Fluvanna, Orange, Culpeper, Berkeley, Loudoun, Prince William, Buckingham, Pendleton, Frederick, Shenandoah, Fauquier, Hardy, Charlotte, Greenbrier and Pittsylvania. Any law to the contrary thereof, notwithstanding; Act increasing reward for killing wolves revived as to certain counties.

SECT. 2. This act shall commence in force from the twentieth day of December next.

CHAP. LIII.

An act establishing the county line of the counties of Amelia and Nottoway, the Dividing line of the parishes of Rawleigh and Nottoway.

(Passed November 15, 1792.)

SECT. 1. WHEREAS it has been represented to the present General Assembly, that the dividing line of the counties of Amelia and Nottoway, crosses in an oblique Preamble.

direction, that of the parishes of Rawleigh and Nottoway, so as to render it very inconvenient to the inhabitants of either county residing between the lines to attend their respective parochial concerns:

The county line established the parish line.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the county line of the counties aforesaid, shall in future be considered, and is hereby established as the line of separation of the said parishes.

CHAP. LIV.

An act for re-assessing the lands in the county of Kanawha.

(Passed November 10, 1792.)

Preamble.

SECT. 1. WHEREAS the county of Kanawha, being composed of parts of the counties of Greenbrier and Montgomery, the commissioners of which counties proceeding on different principles in their valuation of lands in their respective counties, whereby great inequalities have arisen in the value of lands in the said counties, by reason whereof many landholders within the said county complain that their lands are taxed much higher than other lands in the same county of equal quality, and application hath been made to this Assembly, to give a legal sanction to measures for conducting a full and fair enquiry respecting the facts by them stated, in such manner that full information being had therein, such measures may be taken as will do justice to the landholders within the county, without any diminution or derangement of the public revenue. *And whereas* it is at all times the duty of the legislature to attend to the complaints of the people, and redress their grievances, for the purpose of conducting a proper enquiry respecting the complaints of the aforesaid landholders:

Commissioners to be appointed to reassess the lands.

SECT. 2. *Be it therefore enacted by the General Assembly*, That three discreet persons shall be appointed by the governor, with advice of council, as commissioners, to make a new valuation of all the lands heretofore assessed and included in the county of Kanawha, in such

manner that all the lands so included shall average the price of three shillings per acre.

Oath to be taken by them.

SECT. 3. The commissioners so appointed, or any two of whom, shall be sufficient to act, shall before they enter on the execution of the duties herein required, take an oath before the court of Kanawha county, which oath shall be entered of record, faithfully and impartially to value all the lands in the said county to the best of their skill and judgment, in such manner that the whole quantity of land contained therein, shall on an average amount to the price of three shillings per acre.

Vacancies, how to be supplied.

SECT. 4. In case of the death, refusal to act, or other disability of all or any of the said commissioners, the governor, with advice of council, shall appoint others in the room of the persons dead, refusing to act, or disabled, who shall in like manner take an oath as herein before required.

Revaluation, when to be commenced and finished.

SECT. 5. The commissioners so appoined, may enter on the execution of the duties herein required, as soon as they shall have taken the oath aforesaid, and shall continue therein from time to time, so as to complete the whole by the first day of May, in the year one thousand seven hundred and ninety-five.

Commissioners' books, how to be disposed of.

SECT. 6. The said commissioners shall make fair and distinct entries of all the lands by them valued, in a book to be kept by them for that purpose; of which book they shall make two copies, one of which shall be delivered to the governor, to be laid before the Assembly at their meeting in the session in the year seventeen hundred and ninety-five, and the other copy to be delivered to the clerk of Kanawha county, for the inspection of the court.

Compensation for their services.

The commissioners for their services in viewing and valuing the said lands, and for entering the same in their book, and making two copies as aforesaid, shall be allowed by the court of Kanawha, at the rate of six shillings per day, each, to be levied on the landholders of the said county, in proportion to the present assessment of the lands therein.

CHAP. LV.

An act to alter the court days of the counties of Shenandoah, Hampshire and Accomack, and changing the Quarter-Sessions in the counties of Shenandoah, Berkeley, and Hampshire.

(Passed, December 8, 1792.)

Change of the court days, of Hampshire, Shenandoah, and Accomack.

SECT. 1. *Be it enacted by the General Assembly*, That from and after the first day of March next, a court for the county of Hampshire shall be held by the justices thereof on the Wednesday next after the second Tuesday in every month, instead of the last Tuesday. A court for the county of Shenandoah shall be held on the second Tuesday, instead of the last Thursday in every month: And a court for the county of Accomack shall be held by the justices thereof on the last Monday in every month, instead of the last Tuesday.

And of the quarterly sessions of Hampshire, Shenandoah, and Berkely.

SECT. 2. *And be it further enacted*, That the court of quarter-sessions directed by law to be held in the month of September in the said county of Hampshire, shall hereafter be held in the month of August. The court of quarter-sessions shall be held in the said county of Shenandoah in the month of February, instead of March, in every year. And the court of quarter-sessions for the county of Berkeley, shall be hereafter held on every third Tuesday in May, instead of June. Any law to the contrary thereof, notwithstanding.

SECT. 3. This act shall commence and be in force from and after the first day of February next.

CHAP. LVI.

An act for establishing several new ferries.

(Passed, November 17, 1792.)

Public ferries established across Tyger Valley, Staun-

SECT. 1 *Be it enacted by the General Assembly*, That public ferries shall be constantly kept at the following places, and the rates for passing the same as followeth,

that is to say: From the land of Adam Minear, in the county of Harrison, across Tyger Valley river to the opposite shore, the price for a man four cents, and for a horse the same; from the land of William Morton, in the county of Charlotte, across Staunton river to the land of Joel Watkins, in the county of Halifax, the price for a man four cents, and for a horse the same; from the land of Jonathan Zane, across Ohio river to the opposite shore, the price for a man five cents, and for a horse the same; from the land of John Horseley, in the county of Buckingham, across Fluvanna River, to the land of the said Horseley, on the opposite shore, in the county of Amherst, the price for a man four cents, and for a horse, the same; from the land of Samuel Anglin, across Monongahela river, to the land of William Anglin, on the opposite shore, the price for a man four cents, and for a horse the same; and from the land of Edward M'Shan, in the county of Berkeley, across Patowmac river, to the iron works in the state of Maryland, the price for a man five cents, and for a horse the same. ton, Ohio, Fluvanna, Monongahela, and Patowmac rivers.

SECT. 2. And for the transportation of wheel carriages, tobacco, cattle and other beasts, at the places aforesaid, the ferry keepers may demand and take the following rates, that is to say: for every coach, chariot or waggon, and the driver thereof, the same as for six horses; for every cart or four-wheel chaise and the driver, the same as four horses; for every two-wheel chaise or chair, as for two horses; for every hogshead of tobacco, as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one-fifth part of the ferriage for one horse; and for every hog, one-fifth part of the ferriage for one horse, and no more. Rates.

SECT. 3. If any ferry keeper shall demand or receive any greater rates than are hereby allowed, for the ferriage or carriage of any thing, he shall for every such offence, forfeit and pay to the party aggrieved the ferriages demanded or received, and two dollars, to be recovered with costs before a justice of the peace of the county where the offence shall be committed. Penalty on ferry keeper for demanding or receiving more than the legal rates.

SECT. 4. This act shall commence and be in force from and after the passage thereof.

CHAP. LVII.

An act to authorise John Sinclair to build a Toll-Bridge, in the county of Isle of Wight.

(Passed, November 1, 1792.)

Toll-bridge to be built over Pagan creek.

SECT. 1. *Be it enacted by the General Assembly*, That it shall and may be lawful for John Sinclair, his heirs and assigns, to erect or build a bridge over Pagan creek at the town of Smithfield, in the county of Isle of Wight, from any part of the lands on each shore within the distance of sixty feet from the present bridge.

Rates.

SECT. 2. It shall be lawful for the said John Sinclair, his heirs and assigns, to demand and receive the following tolls or rates for the passage of any person or thing over the said bridge, that is to say: The price for a man five cents, and for a horse the same; for every coach, chariot, or waggon, and the driver thereof, the same as for six horses; for every cart or four-wheel chaise or chair, and the driver thereof, the same as for four horses; for every two-wheel chaise or chair, the same as for two horses; for every hogshead of tobacco as for one horse; for every head of neat cattle as for one horse; for every sheep, goat or lamb, one fifth part of the toll or rate for one horse; and for every hog, one fourth part of the toll or rate for one horse, and no more.

Penalty on the keeper for demanding or receiving more than the legal rates.

SECT. 3 If the said John Sinclair, his heirs or assigns, or his, or their agent or servant, shall presume to demand or receive from any person or persons greater rates or tolls than is hereby allowed, for the passage of any thing, he shall forfeit and pay for every such offence to the party grieved, the tolls or rates demanded or received, and one dollar and sixty-six cents; to be recovered with costs before a justice of the peace of the said county of Isle of Wight.

Proprietor's privilege, how it may be forfeited.

SECT. 4. If the said bridge shall remain unfit for the passage of any person or thing by the space of three months, the privilege hereby granted to the said John Sinclair, his heirs and assigns, shall thenceforth cease and determine.

Bridge to be so constructed as not to affect

SECT. 5. *Provided always, and be it further enacted* That the said bridge shall be so constructed that the navigation of the said creek may not thereby be injured

or affected, under the penalty of three hundred and fifty dollars; to be recovered by bill, plaint, or information, in any court of record within this Commonwealth, one half to the use of the informer, and the other half to the use of the Commonwealth. the navigation.

SECT. 6 *And be it further enacted*, That Thomas Smith, Thomas King, Mills Wills, and Charles Fulgham, gentlemen, or any three of them, are hereby required on or before the first day of January next, to value the bridge built at the expence of the said county, over Pagan creek, at the said town of Smithfield, and now standing, and certify the same to the court of Isle of Wight county, and in case the said John Sinclair shall within two months after such valuation, enter into bond with sufficient security, for the same, to the justices of the said court, and their successors, for the use of the county, and payable at such time as shall be fixed by the court, that then the said bridge shall be and it is hereby vested in the said John Sinclair, his heirs and assigns. The present bridge to be valued. and vested in John Sinclair, upon payment of the value.

SECT. 7. This act shall commence and be in force on the first day of November next.

CHAP. LVIII.

An act to discontinue Crawford's Ferry at Mulberry Island Point, in the county of Warwick.

(Passed, October 27, 1792,)

SECT. I, *Be it enacted by the General Assembly*, That the ferry heretofore established from the land of Carter Crawford, at Mulberry island point, in the county of Warwick, across James river, to Hardy's land in the county of Isle of Wight, shall be, and the same is hereby discontinued. Crawford's ferry discontinued.

SECT. 2 This act shall commence and be in force from and after the passing thereof.

CHAP. LIX.

An act to amend the act, intituled "An act for improving the Navigation of Appamattox river, from Broadway to Pocahuntas bridge."

(Passed, November 30, 1792.)

When the Appamatox company may demand tolls.

Be it enacted by the General Assembly, That it shall and may be lawful for the Appamattox company to demand and receive tolls, when they shall make the river capable of being navigated in any season from Broadway to Pocahuntas bridge by vessels drawing nine feet water; any thing in the seventh section of the act, intituled, An act for improving the navigation of Appamattox river from Broadway to Pocahuntas bridge, to the contrary notwithstanding.

CHAP. LX.

An act to explain and amend an act for opening and extending the navigation of Appamattox river.

(Passed, December 26, 1792.)

Preamble.

SECT. 1. WHEREAS the act of assembly passed in December, seventeen hundred and eighty-seven, for opening and extending the navigation of Appamattox river; hath among other matters therein contained, enacted, That it shall and may be lawful for the trustees therein appointed, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof, and in case of disagreement, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the state, the like proceedings shall be had to estimate the value thereof by a jury, as are directed and prescribed by the act, intituled, An act for opening and extending the navigation of Patowmac river, and such valuation shall be paid by the

said trustees to the owner of the said land, or his legal representative, and on payment thereof, the said land shall thenceforth be vested in the said trustees, and their successors, in fee, for the purposes of this act. And whereas doubts have arisen whether the trustees appointed to carry the said act into execution, have a right to lease or sell any part of the land which may be bought or condemned in manner aforesaid, and any portion of the water passing through the canals, which may be cut through the same for the purpose of erecting water mills or other useful works: For a plain declaration of the law therein,

Trustees may dispose of the land vested in them,

and the use of the water passing through the same,

SECT. 2. *Be it enacted by the General Assembly*, That the trustees legally appointed for opening and extending the navigation of Appamattox river, and their successors, shall have full power and authority to lease or sell any part of the lands which may be purchased or condemned in manner directed by the said recited act, and the use of so much of the water passing through the same as may be necessary for such mills or other useful works, as may be proposed to be erected thereon, and which in their opinion may be disposed of without prejudice to the navigation of the said river, and to make such deeds or conveyances for the same, as may be necessary for conveying to the person or persons so leasing or purchasing, and to their heirs or assigns, all the right and interest which the said trustees may lease or sell, agreeably to the authority in them vested, and the proceeds of the said sales or leases shall be applied by the said trustees in the same manner as the tolls are directed to be applied by an act, intituled, An act for opening and extending the navigation of Appamattox river.

under the direction of the subscribers.

SECT. 3. *Provided always*, That before the said trustees shall have power to lease or sell any of the said lands, they shall call a meeting of the subscribers for opening and extending the said navigation, giving at least four weeks notice of the time and place of such meeting, in some one of the Richmond newspapers. And the said trustees in making leases or sales of any lands, or in disposing of the use of any waters passing through the canal of the said river Appamattox, shall conform to such rules and regulations therein, as a majority of the subscribers then assembled, shall direct.

SECT. 4. And whereas the said trustees are required by the aforesaid recited act, to begin the work as near to Banister's mill, as circumstances will admit, and doubts

have arisen whether they have a right to open the navigation below the said mill: *Be it therefore enacted*, That it shall and may be lawful for the said trustees, and their successors, to open the navigation as near to the said mill, either above or below the same, at such places, and in such manner, as in their opinions will be most for the benefit of the said navigation.

Navigation may be opened below Banister's mill.

Other trustees added to the former.

SECT. 5. *And be it further enacted*, That Francis Eppes, John Royall, Neil Buchanan, Roger Atkinson, jun. and Edmund Harrison, gentlemen, be appointed trustees, in addition to the number formerly appointed, for the purpose of carrying into full effect the act aforesaid, any four of whom shall be sufficient.

No mill seats to be sold, except between Atkinson's and Banister's mills.

SECT. 6. *Provided always*, That nothing in this act contained, shall be construed to allow the said trustees to make sale of any mill seat, except between Atkinson's and Banister's mills.

CHAP. LXI.

An act concerning certain Tobacco inspections within the town of Petersburg.

(Passed, December 8, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to the present General Assembly, that the proprietors of the warehouse in the town of Petersburg, called Boyd's and Bollingbrook, are willing to rebuild the same of brick or stone, to be covered with slate or tile, and make the gates of iron, in case a reasonable time is allowed them to complete the same.

Boyd's and Bollingbrook warehouses to be rebuilt of brick or stone, and covered with slate or tile.

When.

SECT. 2. *Be it therefore enacted*, That the proprietor of Boyd's warehouse, shall, on or before the first day of May next, give bond to the court of Prince George county, and the proprietor of Bollingbrook warehouse, give bond to the court of Dinwiddie county, each in the penalty of one thousand pounds for the faithful and full performance of the conditions herein mentioned; they and each of them are and shall be compelled to erect the same of brick or stone, to be covered with slate or tile, and make the gates of iron. *Provided*, that the said proprietors shall be and they are hereby required, under the aforesaid penalty, to

begin to rebuild the said warehouses and construct one fourth part of each, in manner aforesaid, on or before the first day of October, one thousand seven hundred and ninety-four, and one other fourth on the first day of October in each succeeding year, until the whole shall be completed.

SECT. 3. This act shall commence in force from and after the passing thereof. Commencement of this act.

CHAP. LXII.

An act to establish an inspection of tobacco on the lands of John Scott, in the county of Albemarle.

(Passed November 10, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That an inspection of tobacco shall be, and the same is hereby established on the land of John Scott, at his ferry in the county of Albemarle; to be called and known by the name of Scott's warehouse, the proprietor whereof shall build the same at his own expense, of brick or stone, to be covered with slate or tile, and make the gates of iron. Inspection established on Scott's land, in Albemarle.

SECT. 2. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-four dollars, for their salary. Inspectors salaries.

SECT. 3. The inspectors at the said warehouse, upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation with a manifest for the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, number and weight of the tobacco, and stamped with the warehouse name; which tobacco, with the manifest, shall be delivered to the inspectors at Byrd's, Shockœ, Rockett's, Manchester, Rocky-Ridge, Trent's, or Johnson's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same, to the owners thereof, to be delivered for exportation when quireder. Manifests to be delivered with each load of tobacco. Where the tobacco is to be delivered.

What warehouse rent is to be paid therefor.

The inspectors at the said warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at each of the said warehouses of Byrd's, Shockœ's, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, shall demand and receive for all tobacco brought to the said warehouse by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, and be appropriated in the manner directed by law for the appropriation of the tax or rent on such re-landed tobacco.

The duty, how to be collected.

SECT. 4. The duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

Deficiency of inspectors salaries not to be paid by the public.

SECT. 5. If the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors salaries, the deficiency shall not be paid by the public.

When the inspection shall commence.

SECT. 6. No tobacco shall be received, nor shall any inspectors be appointed at the said warehouse, until the court of the county of Albemarle, shall be of opinion, and enter the same of record, that the warehouse is built according to the directions of this act.

SECT. 7. This act shall commence and be in force from and after the passing thereof.

CHAP. LXIII.

An act to establish an inspection of tobacco on the lands of William Cabell in the county of Amherst.

(Passed November 8, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to the present General Assembly, that it would be of great utility and public convenience to establish an inspection of tobacco

at the confluence of Tye and James rivers, on the lands of William Cabell, in the county of Amherst, the proprietor whereof is willing to erect the necessary buildings at his own expence.

Inspection established near the confluence of Tye and James rivers.

SECT. 2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established at or near the confluence of Tye and James rivers, on the lands of William Cabell in the said county of Amherst, to be called and known by the name of Tye river warehouse.

Inspectors salaries.

SECT. 3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-three dollars and thirty-three cents, for their salary.

Manifests to be delivered with each load of tobacco.

SECT. 4. The inspectors at the said warehouse upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation, with a manifest for the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, numbers and weights of the tobacco, and stamped with the name of the warehouse; which tobacco, with the manifest, shall be delivered to the inspectors, either at Byrd's, Shockœ, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, who are hereby required to receive the same, and enter it agreeable to the manifest, in a book to be provided and kept for that purpose, and grant their receipts to the owners thereof for the same, to be delivered for exportation when required. The inspectors at the last-mentioned warehouses are hereby empowered to examine and weigh any tobacco delivered to them, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse subject to the directions of the owners, in like manner as other damaged tobacco.

Where the tobacco is to be delivered.

But may be shipped without being delivered at any other warehouse.

SECT. 5. *Provided always*, That nothing herein contained shall be construed to prevent the owner of any tobacco inspected at the said warehouse from shipping the same without its being delivered or reinspected at any other warehouse.

Warehouse rent to be paid therefor

SECT. 6. *And be it further enacted*, That the inspectors at each of the said warehouses of Byrd's, Shockœ, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same

warehouse rent as is allowed for tobacco re-landed from on board any vessel, to be appropriated in the manner directed by law for the appropriation of the rent of such re-landed tobacco.

The duty, how to be collected.

SECT. 7. The impost and duty on tobacco inspected at the said warehouse, shall be the same, and collected, accounted for, and paid in like manner, and under the like penalties, as is directed and prescribed by law for other tobacco inspections.

When the inspector shall commence.

SECT. 8. *And be it further enacted*, That when it shall appear to the court of Amherst county, that a sufficient number of houses are built at the said inspection for the reception of tobacco, they shall then proceed to recommend fit persons to serve as inspectors at the said warehouse.

Deficiency of inspectors' salaries not to be paid by the public.

SECT. 9. *Provided always, and be it further enacted*, That if the quantity of tobacco inspected at the warehouse, shall not be sufficient to pay the usual charges, and the inspectors' salaries, the deficiency shall not be paid by the public.

CHAP. LXIV.

An act to establish an inspection of Tobacco in the town of St. Taminy.

(Passed October 27, 1792.)

Preamble.

SECT. 1. WHEREAS it has been represented to this present General Assembly that it would be of great utility to establish a warehouse for the reception and inspection of tobacco in the town of St. Taminy and county of Mecklenburg:

Inspection established on Blanton's land in St. Taminy.

SECT. 2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on lot numbered "nine" in the plat of the said town, the property of James Blanton, who shall build convenient warehouses at his own expence, to be called and known by the name of Saint Taminy's warehouse.

Inspectors' salaries.

SECT. 3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and fifty dollars, for their salary.

Manifests to be delivered with each load of tobacco.

SECT. 4. The inspectors at the said warehouse, upon the delivery of their notes, or an order where they have not issued notes, shall deliver the tobacco for transportation, with a manifest of the same, expressing the owner's name, the name of the skipper of the batteau or canoe, or owner or driver of the waggon, when delivered to the latter, with the marks, number, and weight of the tobacco, and stamped with the warehouse name, which tobacco, when delivered to a waggon, shall be by the driver thereof delivered with the manifest to the inspectors at any of the warehouses which now are or shall be hereafter established in the towns of Petersburg, Manchester or Osborne's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books, to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at the last mentioned warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco.

When the tobacco is to be delivered.

Warehouse rent to be paid therefor.

SECT. 5. *And be it further enacted*, That the inspectors at each of the said warehouses in the towns of Petersburg, Manchester, or Osborne's, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent, as is allowed for tobacco re-landed from board any vessel, and be appropriated in the manner directed by law, for the appropriation of the tax or rent on such re-landed tobacco.

The duty, how to be collected.

SECT. 6. The impost and duty on tobacco inspected at the said warehouse, shall be the same, and collected, accounted for and paid in like manner as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

Inspection when to commence.

SECT. 7. So soon as convenient houses for the reception of tobacco shall be built by the said James Blanton, the court of the said county of Mecklenburg, shall recommend fit persons to be commissioned inspectors thereof.

The tobacco not a tender in discharge of certain contracts.

SECT. 8. No person shall be obliged to receive any notes for tobacco passed at the said warehouse in discharge of any tobacco contract heretofore entered into.

Deficiency of inspectors' salaries not to be paid by the public.

SECT. 9. *Provided always*, That if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

SECT. 10. This act shall commence and be in force from the passing thereof.

CHAP. LXV.

An act to establish a Town and inspection of Tobacco on the lands of John Hoomes, in the county of Caroline.

(Passed November 2, 1792.)

Town of Milford established on Hoomes's land in Caroline.

SECT. 1. *BE it enacted by the General Assembly*, That fifteen acres of land, the property of John Hoomes, lying on the north side of Mattapony river, adjoining the bridge, called Dogue Town, in the county of Caroline, shall be, and they are hereby vested in Edmund Pendleton, John Taylor, John Baylor, John Hoomes, Edmund Pendleton, junior, Mungo Roy, and Anthony New, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Milford.

Trustees.

Lots, when and how to be sold.

SECT. 2. So soon as the said land shall be laid off, into lots, the said trustees, or a majority of them, shall proceed to sell the same at public auction for the best price that can be had, the time and place of such sale, being first advertised two months in the Virginia Gazette; and to convey the said lots to the purchasers in fee, subject to the condition of building on each a dwelling-house fixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and pay the money arising from such sales to the said John Hoomes, or his legal representatives.

Powers of the trustees.

SECT. 3. The trustees of the said town, or a majority of them, are hereby impowered to make such rules and

orders for the regular building of houses therein, as to them shall seem meet, and to settle and determine all disputes about the bounds of the said lots.

Privileges of the purchasers of lots.

SECT. 4. So soon as the purchasers of lots in the said town shall have built thereon, according to the conditions of their respective deeds of conveyance, they shall then be entitled to, and have and enjoy all the rights, privileges and immunities, which the freeholders and inhabitants of other towns in this state, not incorporated, hold and enjoy.

Vacancies in the trustees, how to be supplied.

SECT. 5. In case of the death, resignation, or removal out of the county, of any one or more of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the trustees so chosen, shall have the same power and authority, as if they had been appointed and named in this act.

Inspection of tobacco established on Hoomes's land adjoining the town.

SECT. 6. And whereas it is represented that it will be of public utility to establish an inspection of tobacco on the lands of the said John Hoomes, adjoining the said town, who is willing to build the necessary houses at his own expense: *Be it therefore enacted*, that an inspection of tobacco shall be, and the same is hereby established on the lands of the said John Hoomes, adjoining the said town of Milford, in the county of Caroline, to be called and known by the name of York warehouse.

Inspector's salaries.

Proviso.

SECT. 7. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and fifty dollars for their salary: *Provided always*, that if the quantity of tobacco inspected at the said warehouse shall not be sufficient to pay the usual charges and the inspectors' salaries, the deficiency shall not be paid by the public.

Manifests to be delivered with each load of tobacco.

SECT. 8. The inspectors at the said warehouse upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the said tobacco with a manifest of the same, expressing the owner's name, the name of the skipper of the boat, batteau or canoe, with the marks, number and weight of the tobacco, and stamped with the warehouse name; which tobacco with the manifest, may, at the option of the owner, either be delivered from such boat, batteau, or canoe, for exportation, or delivered to the inspectors at Todd's or Aylett's warehouse, who are hereby required to receive the same, and enter it agreeable to the manifest, in books to be by

How the tobacco may be disposed of.

them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at Todd's and Aylett's warehouse are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or imbezzled, the same shall not be entered in the books, but remain in the warehouse, subject to the direction of the owner, in like manner as other damaged tobacco. The inspectors at Todd's and Aylett's warehouse, shall demand and receive for all tobacco brought to the said warehouses, by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, and be apporpriated in the manner directed by law for the appropriation of the tax or rent on such re-landed tobacco.

Warehouse rent to be paid therefor.

The duty, how to be collected.

SECT. 9. The impost and duty on tobacco inspected at the said warehouse, shall be the same, and collected, accounted for, and paid in like manner, as is prescribed by law for other inspections, except where it shall be otherwise particularly directed by this act.

Certain tobacco contracts not to be affected by this act.

SECT. 10. *Provided always*, That nothing herein contained shall be construed, so as to affect any contract or contracts made payable in tobacco previous to the passing of this act.

CHAP. LXVI.

An act to establish an inspection of Tobacco in the town of Lynchburg, and county of Campbell.

(Passed October 23, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented to this present General Assembly, that it would be of public utility to establish another inspection of tobacco in the town of Lynchburg, and county of Campbell:

Inspection established on Lynch's lands in Lynchburg.

SECT. 2. *Be it therefore enacted*, That an inspection of tobacco shall be, and the same is hereby established on the land of John Lynch, towards the east end of the said town of Lynchburg, near Union or Rock-spring,

and between Lynch street and the river, the proprietor of the said land to build convenient houses at his own expense, to be called and known by the name of Spring warehouse.

Inspectors' salaries.

SECT. 3. There shall be allowed and paid annually to each of the inspectors at the said warehouse, the sum of one hundred and thirty-three dollars and thirty-three cents, for their salary.

Manifests to be delivered with each load of tobacco.

SECT. 4. The inspectors at the said warehouse, upon the delivery of their notes, or an order, where they have not issued notes, shall deliver the tobacco for transportation, with a manifest for the same, expressing the owner's name, the name of the skipper of the batteau or canoe, with the marks, number, and weight of the tobacco, and stamped with the warehouse name, which tobacco, with the manifest, shall be delivered to the inspectors at Byrd's, Shockœ's, Rockett's, Manchester, Rocky-Ridge, Trent's, or Johnson's, who are hereby required to receive the same, and enter the said tobacco agreeable to the said manifest, in books to be by them provided and kept for that purpose, and grant their receipts for the same to the owners thereof, and be delivered for exportation when required. The inspectors at the said warehouses are hereby empowered to examine and weigh any tobacco to them delivered, when required by the owner thereof, and if found to be damaged or embezzled, the same shall not be entered in the books, but remain in the warehouse subject to the direction of the owner, in like manner as other damaged tobacco.

The tobacco, where to be delivered.

What warehouse rent to be paid therefor.

SECT. 5. The inspectors at each of the said warehouses of Byrd's, Shockœ's, Rockett's, Manchester, Rocky-Ridge, Trent's, and Johnson's, shall demand and receive for all tobacco brought to the said warehouses by virtue of this act, the same warehouse rent as is allowed for tobacco re-landed from on board any vessel, and be appropriated in the manner directed by law for the appropriation of the tax or rent on such re-landed tobacco.

Duty, how to be collected.

SECT. 6. The duty on tobacco inspected at the said warehouse shall be the same, and collected, accounted for, and paid in like manner, as is directed and prescribed by law for other tobacco inspections, except where it shall be otherwise particularly directed by this act.

Deficiency of inspectors' sa-

SECT. 7. *Provided always, and be it further enacted*, That if the quantity of tobacco inspected at the said

Salaries not to be paid by the public.

warehouse shall not be sufficient to pay the usual charges, and the inspectors' salaries, the deficiency shall not be paid by the public.

CHAP. LXVII.

An act to establish a Town in the county of Loudoun.

(Passed November 12, 1792.)

Town of Centerville established on the lands of Alexander and others, in the county of Loudoun. Trustees.

SECT. 1. *BE it enacted by the General Assembly*, That seventy acres of land, lying near Newgate, in the county of Loudoun, the property of John Stewart Alexander, Presley Carr Lane, George Ralls, Mary Lane, and Francis Adams, shall be, and they are hereby vested in Leven Powell, Joseph Lane, David Stewart, Thomas Blackburn, William Alexander, Hugh Stewart, Samuel Love, John Orr, Charles Eskridge, William Lane, junior, William Lane, (the third) John Stewart Alexander, Francis Adams, Presley Carr Lane, and George Ralls, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Centerville.

Main street, how to be laid off.

SECT. 2. *Provided always, and be it further enacted*, That the trustees shall cause the main street of the said town to be laid off in such a direction as to bind on the lands of Francis Adams, and Mary Lane, on one side, and Presley Carr Lane, George Ralls, and John Stewart Alexander, on the other.

Lots, when and how to be sold.

SECT. 3. So soon as the said land shall be laid off into lots, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of such sale being previously advertised two months successively in the Virginia Gazette; the purchasers to hold the said lots respectively, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within three years from the day of sale, and to convey the said

Conditions of the sales.

lots to the purchasers in fee simple, subject to the condition aforesaid, and shall pay the money arising from the sale of the said lots, to the said John Stewart Alexander, Presley Carr Lane, George Ralls, Mary Lane, and Francis Adams, or their legal representatives, in such proportions as the lots severally owned by them in the said town, shall amount to. Powers of the trustees.

Sect. 4. The trustees of the said town, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein as to them shall appear proper; and to settle and determine all disputes concerning the bounds of the said lots. Powers of the trustees.

Sect. 5. In case of the death, resignation, or removal out of the county of one or more of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the person so elected shall have the same power and authority as if he had been particularly named in this act. Vacancies how to be supplied.

Sect. 6. If the purchaser of any lot in the said town shall fail to build thereon according to the conditions of their respective deeds of conveyance, the trustees of the said town, or a majority of them, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town. May sell lots forfeited by breach of the condition of the sales.

Sect. 7. This act shall commence and be in force from and after the passing thereof.

CHAP. LXVIII.

An act concerning the town of Springfield, in the county of Hampshire.

(Passed October 27, 1792.)

Sect. 1. WHEREAS by an act of the General Assembly, passed in the year one thousand seven hundred and ninety, intituled, "An act to establish several towns," it was among other things enacted, that one hundred acres of land, lying at the cross-roads in the county of Hampshire, the property of William and Samuel Abernethy, should be vested in certain trustees, to be laid off into lots of half an acre each, with convenient streets, Preamble.

and established a town by the name of Springfield: And whereas it hath been represented to this present Assembly, that the said William and Samuel Abernethy had, previous to the passing of the said recited act, laid off the said one hundred acres of land into lots of one quarter of an acre each, and sold many of them, for which bonds were executed by the purchasers, but no conveyance made by the said William and Samuel Abernethy:

Each lot to contain one quarter of an acre.

SECT. 2. *Be it therefore enacted*, That the lots in the said town of Springfield, shall contain only one quarter of an acre each, as originally laid out by the proprietors thereof, and that the name of "Andrew Humes," shall stand in the stead and place of "Andrew Hughes," (as was meant and intended, but the name mistaken) as one of the trustees of the said town.

A mistake in naming one of the trustees rectified.

Trustees to convey lots sold before the town was established.

SECT. 3. *And be it further enacted*, That the trustees of the said town, or a majority of them, shall, and they are hereby empowered, to convey to the purchasers all the lots sold by the said William and Samuel Abernethy previous to the passing of the said recited act, according to the terms of such sale.

Repealing clause.

SECT. 4. So much of the said recited act, as comes within the meaning of this act, is hereby repealed.

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. LXIX.

An act to establish a town at the Court-house, in the county of Patrick.

(Passed November 17, 1792.)

Town of Taylorsville established at Patrick court-house.

SECT. 1. *BE it enacted by the General Assembly*, That the lots and streets, as the same are already laid off at the court-house in the county of Patrick, shall be, and are hereby established a town by the name of Taylorsville; and Archelaus Hughes, Abraham Penn, James Lyon, Samuel Clark, Francis Turner, James Armstrong, William Banks, William Carter, Charles Foster, and George Penn, gentlemen, are constituted and appointed trustees thereof.

SECT. 2. The trustees of the said town, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein as to them shall seem best, and to settle and determine all disputes about the bounds of the said lots. Their powers.

SECT. 3. In case of the death, resignation, or removal out of the county of one or more of the trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the person so elected shall have the same power and authority, as if he had been particularly named in this act. Vacancies, how to be supplied.

CHAP. LXX.

An act for establishing a town in the county of Wythe.

(Passed October 29, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That one hundred acres of land lying in the county of Wythe, and given to the said county by Stophel Zimmerman and John Davis, a part of which is already laid off into lots and streets, be, and the same is hereby vested in Alexander Smyth, Walter Crockett, William Ward, Robert Adams, James Newell, David M'Gavock, Jesse Evans, and William Caffee, gentlemen, trustees, so much thereof to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, as will make up the quantity of sixty acres, and establish a town by the name of Evansham, and the residue of the said one hundred acres, shall be and remain as a common to, and for the use and benefit of the inhabitants of the said town. Town of Evansham established in Wythe.

SECT. 2. The said trustees, or a majority of them, shall on receipt of the purchase money, or bond and approved security for the payment thereof upon demand, convey to the different purchasers, or their assigns, the lots sold by the commissioners appointed by the court of the said county to lay off the said town. *Provided always, and be it further enacted*, That if any purchaser of a lot in the said town from the commissioners, shall fail Trustees to convey lots sold by the former commissioners. Proviso.

for the space of six months from and after the passing of this act, to pay the purchase money, or give bond and approved security to the said trustees for the payment thereof, as aforesaid, every such purchaser shall forfeit his claim, and the trustees may enter on every such lot, and make sale thereof in like manner as if the same had never been sold.

Lots when and how to be sold.

SECT. 3. So soon as the said trustees shall have laid off so much of the said one hundred acres of land into lots and streets as is herein before directed, they shall sell the said lots at public auction on some court day, having given three months previous notice thereof in the Virginia Gazette, taking bonds with good security for the payment of the purchase money, on such credit as they shall judge reasonable, and shall convey the said lots to the purchasers in fee-simple, and pay the money arising from the said sales to the order of the court of the said county of Wythe, deducting ten per centum for collecting and charges.

Purchase money how to be disposed of.

Powers of the trustees.

SECT. 4. The said trustees, or a majority of them, shall have power from time to time, to make such rules for the building of houses in the said town, as to them shall seem most convenient and conducive to the good of the inhabitants; to settle and determine all disputes about the limits or boundaries of the lots; to make rules and orders for the clearing, cleansing and keeping in good order the streets thereof; and also to abate and remove all nuisances in the said town; and if any person shall build or begin to build any wooden chimney or chimnies therein, the trustees shall cause all such to be pulled down and demolished.

Vacancies, how to be supplied.

SECT. 5. In case of the death, removal out of the county, resignation, or legal disability of any of the said trustees, it shall be lawful for those remaining to choose some other good and lawful inhabitant of the said county, to supply such vacancy, and the person so chosen, shall have the same power as any trustee appointed by this act.

Privileges of the owners of lots.

SECT. 6. So soon as the owners of lots in the said town shall have built thereon a dwelling-house, the dimensions of which shall be equal to twelve feet square at the least, they shall then be entitled to all the privileges and advantages that the inhabitants of other towns in this state, not incorporated, have and enjoy.

Swine not to

SECT. 7. No person shall permit their swine to run

at large in the said town, on pain that the same shall be liable to be killed by any inhabitant thereof. be permitted to run at large in the town.

CHAP. LXXI.

An act for establishing several Towns.

(Passed November 10, 1792.)

Town established at Montgomery courthouse;

SECT. 1. *BE it enacted by the General Assembly*, That one hundred and eighty acres of land, the property of the county of Montgomery, whereon the courthouse and other public buildings are erected, as the same are already laid off into lots and streets, shall be, and the same are hereby established a town by the name of Christiansburg, and Byrd Smith, James Barnett, Hugh Crockett, Samuel Eason, Joseph Cloyd, John Preston, Christian Snido, James Charlton, and James Craig, gentlemen, constituted and appointed trustees thereof.

By the name of Christiansburg.

On Brent's land on Aquia creek in Stafford.

SECT. 2. That fifty acres of land lying on the north side of Aquia creek, in the county of Stafford, the property of George Brent, shall be, and they are hereby vested in Travers Daniel, jun. Baily Washington, John Cooke, Daniel C. Brent, John R. Peyton, Valentine Peyton, John Murray, Robert Brent, Thomas Mountjoy, John Mountjoy, Elijah Threlkeld, and Nathaniel Fox, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Woodstock.

By the name of Woodstock.

On Grier's land in Franklin.

SECT. 3. That forty acres of land in the county of Franklin, the property of Moses Grier, shall be, and they are hereby vested in John Early, Jacob Boon, John Northsinger, Daniel Barnhart, Samuel Thompson, William Wright, jun. William Turnbull, and Swinfield Hill, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and established a town by the name of Wisenburgh. And that thirty-two acres of land lying in the county of Franklin, the property of Daniel Layman and Stephen Peters, as the same are already laid off into lots and streets, be, and they are hereby established a town by the name of Germantown, and Swinfield Hill, George

By the name of Wisenburgh.

And on Layman and Peter's land in Franklin.

By the name

of Germantown.

Turnbull, Jacob Harkrider, Daniel Pearry, Jubal Early, John Forgarson, and Tobias Miller, gentlemen, constituted and appointed trustees thereof.

Lots in Woodstock and Wisenburg when and how to be sold.

SECT. 4. So soon as the said lands of George Brent and Moses Grier shall respectively be laid off into lots, the trustees of each, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of such sale being previously advertised, two months successively in the Virginia Gazette, and to convey the said lots to the purchasers thereof in fee, subject to the condition of building on each a dwelling-house sixteen feet square at least, with a brick or stone chimney, to be finished fit for habitation within five years from the day of sale, and pay the money arising from such sales to the proprietors of the said lands respectively, or their legal representatives.

Powers of the trustees.

SECT. 5. The trustees of the said towns respectively, or a majority of them, are empowered to make such rules and orders for the regular building of houses therein, as to them shall seem best, and to settle and determine all disputes concerning the bounds of the said lots.

Purchasers to build on their lots, or forfeit them.

SECT. 6. If the purchaser of any lot in the said towns of Christiansburg, Woodstock, Wisenburgh, and Germantown, shall fail to build thereon within the time herein before limited for that purpose, the trustees of the said town where such failure happens, may thereupon enter into such lot and sell the same again, and apply the money for the benefit of the inhabitants of the said town.

Vacancies in the trustees how to be supplied.

SECT. 7. In case of the death, resignation, or removal out of the county of one or more of the trustees of the said towns respectively, the vacancy thereby occasioned, shall be supplied by the remaining trustees, or a majority of them, and the person so elected, shall have the same power and authority as if he had been particularly named in this act.

Commencement of this act.

SECT. 8. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXII.

An act to establish a town in the county of Buckingham.

(Passed November 10, 1792.)

Town established on Horsley's land in Buckingham,

SECT. 1. *BE it enacted by the General Assembly*, That ten acres of land, the property of John Horsley, in the county of Buckingham, shall be, and they are hereby vested in David Bell, John Moseley, Charles Patteson, William Dieuguid, William Perkins, junior, Philip Du-Val, James Dilliard, Charles Moseley, Josias Jones, Henry Flood, and David Kyle, gentlemen, trustees, to be by them, or a majority of them, laid off into lots of half an acre each, with convenient streets, and together with the lots already laid off adjoining thereto by the said Horsley, established a town by the name of Dieuguidsville.

By the name of Dieuguidsville.

Lots when and how to be sold.

SECT. 2. So soon as the said ten acres of land shall be laid off into lots, the trustees, or a majority of them, shall proceed to sell the same at public auction, for the best price that can be had, the time and place of sale being previously advertised for two months successively in the Virginia Gazette, and to convey the said lots to the purchasers thereof in fee, and pay the money arising from the sale of the said lots to the said John Horsley, or his legal representatives.

Powers of the trustees.

SECT. 3. The trustees of the said town, or a majority of them, are hereby authorised to make such rules and orders for the regular building of houses therein, as to them shall seem proper, and to settle and determine all disputes concerning the bounds of the said lots.

Vacancies, how to be supplied.

SECT. 4. In case of the death, resignation, or removal out of the county, of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them, and the person so elected, shall have the same power and authority as if he had been particularly named in this act.

Commencement of this act.

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXIII.

An act giving the purchasers of lots in several towns a further time to build thereon.

(Passed November 2, 1792.)

Further time allowed for improving lots in towns of Clarksburg, Milton, Abingdon, and Morgan town.

SECT. 1. WHEREAS the purchasers of lots in the town of Clarksburg, in the county of Harrison, in the town of Milton, in the county of Albemarle, in the town of Abingdon, in the county of Washington, and Morgan's town, in the county of Monongalia, from the difficulty of procuring materials, have not been able to build on their lots within the time prescribed by law:

SECT. 2. *Be it therefore enacted*, That the further time of five years, from the passing of this act, shall be allowed the purchasers of lots in the said towns respectively, to build thereon and save the same.

CHAP. LXXIV.

An act to establish an Academy, and incorporate the trustees thereof, in the county of Augusta.

(Passed December 4, 1792.)

Preamble.

SECT. 1. WHEREAS it is the interest of all wise and free governments, to facilitate as much as may be, the diffusion of useful knowledge among its inhabitants; and application hath been made to this Assembly to pass an act appointing trustees for an academy about to be built in Staunton, in the county of Augusta, and to incorporate them into a body politic:

Trustees appointed for the Staunton academy and incorporated.

SECT. 2. *Be it therefore enacted*, That the Reverend John M'Cue, the Reverend William Wilson, the Reverend Archibald Scott, Gabriel Jones, Alexander St. Clair, Sampson Matthews, senior, Archibald Stuart, Robert Gamble, William Bowyer, Alexander Humphreys, David Stephenson, Robert Porterfield, James Powel Cocke, Al-

exander Nelson, John Steel, James Lyle, Robert Gratton, William Lewis, and John Tate, gentlemen, shall be, and they are hereby constituted a body politic and corporate, to be known by the name of the trustees of the Staunton academy, and by that name shall have perpetual succession and a common seal. The said trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive, and hold to them and their successors for ever, any lands, tenements, rents, goods or chattels, of what kind soever, which shall be given or devised to, or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy. The said trustees by the name aforesaid, may sue and be sued, implead and be impleaded in any court of law or equity. They shall have power from time to time to establish such by-laws, rules and ordinances, not contrary to the constitution and laws of this Commonwealth, as they shall deem necessary for the government of the said academy. Not less than ten of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government, or support of the said academy; and no real estate belonging to the said academy, shall be disposed of, unless fourteen of the said trustees shall concur in opinion thereon. Upon the death, resignation, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them. The said trustees shall elect a treasurer, who shall receive all monies accruing to the said academy and property delivered to his care, and pay or deliver the same to the order of the said trustees; and before he enters on the execution of the duties of his office, shall give bond and security for such sum as the said trustees shall direct, payable to them and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will then be required by the said trustees, render to them a true account of all monies, goods and chattels received by him on account of, and for the use of the said academy. The treasurer shall receive such salary as may be allowed and fixed by the trustees. If the treasurer shall fail to render, when thereunto required, a just and true account of all monies, goods and chattels which have come to his hands by virtue of his office, and also of all expenditures for or to the said aca-

Their powers and duties.

How many shall constitute a board.

Vacancies how to be supplied.

Treasurer to be appointed

demy, he shall on such failure be subject to a judgment on motion in any court of record in this Commonwealth; and execution may thereupon be awarded in like manner as against sheriffs for the non-payment of public taxes.

CHAP. LXXV.

An act to establish an Academy, and incorporate the trustees thereof, in the county of Wythe.

(Passed October 27, 1792.)

Preamble.

SECT. 1. WHEREAS it is the interest of all wise, civilized, and free governments, to facilitate as much as may be, the diffusion of useful knowledge among its inhabitants; and whereas application hath been made to this Assembly, to pass a law appointing trustees for an academy about to be built in the county of Wythe, and to incorporate them into a body politic:

Trustees appointed for the Wythe academy and incorporated.

SECT. 2. *Be it therefore enacted*, That Alexander Smyth, John Preston, William Tate, George Hancock, Byrd Smith, Francis Preston, Walter Crockett, James M'Gavock, John Adams, Jehu Stephens, Jesse Evans, James Campbell, the Reverend John Stonger, Robert Sayer, and William Caffee, gentlemen, shall be, and they are hereby constituted a body politic and corporate, to be known by the name of the trustees of Wythe academy, and by that name shall have perpetual succession and a common seal. The said trustees, and their successors, by the name aforesaid, shall be capable in law to purchase, receive and hold to them and their successors forever, any lands, tenements, rents, goods or chattels, of what kind soever, which shall be given or devised to, or purchased by them for the use of the said academy, and to sell and dispose of the same in such manner as to them shall seem most conducive to the advantage of the said academy. The said trustees, by the name aforesaid, may sue and be sued, implead and be impleaded, in any court of law or equity. They shall have power from time to time, to establish such by-laws, rules, and ordinances, not

Their powers and duties.

contrary to the constitution and laws of this Commonwealth, as they shall deem necessary for the government of the said academy. Not less than five of the said trustees shall constitute a board to determine upon any matter relative to the establishment, government, or support of the said academy; and no real estate belonging to the said academy, shall be disposed of unless a majority of the said trustees shall concur in opinion thereupon. Upon the death, resignation, or other legal disability of any of the said trustees, the vacancy thereby occasioned shall be supplied by the remaining trustees, or a majority of them. The said trustees shall elect a treasurer, who shall receive all monies accruing to the said academy, and property delivered to his care, and pay or deliver the same to the order of the said trustees; and before he enters on the duties of his office, shall give bond and security for such sum as the said trustees shall direct, payable to them, and their successors, and conditioned for the faithful discharge of the trust reposed in him; and that he will, when required by the said trustees, render to them a true account of all monies, goods and chattels received by him on account of, and for the use of the said academy. The treasurer shall receive such salary as may be allowed and fixed by the trustees. If the treasurer shall fail to render, when thereunto required, a just and true account of all monies, goods and chattels, which have come to his hands by virtue of his office, and also of all expenditures for or to the said academy, he shall on such failure be subject to a judgment on motion in any court of record in this Commonwealth; and execution may thereupon be awarded in like manner as against sheriffs for the non-payment of public taxes.

How many shall constitute a borrd.

Vacancies, how to be supplied.

A treasurer to be appointed.

CHAP. LXXVI.

An act for establishing a Bank in the town of Alexandria.

(Passed November 23, 1792.)

Preamble.

SECT. 1. WHEREAS the experience of commercial nations for several ages past, has fully evinced, that well regulated banks are highly useful to society, by promoting punctuality in the performance of contracts, encreasing the medium of trade, facilitating the payment of taxes, preventing the exportation of specie, furnishing for it a safe deposit, and by discount rendering easy and expeditious the anticipation of funds:

Subscriptions to be opened for the capital stock.

SECT. 2. *Be it enacted by the General Assembly of this Commonwealth*, That a subscription be opened for one hundred and fifty thousand dollars, in shares of two hundred dollars each, and that subscriptions be taken under the direction of Philip R. Fendall, Robert T. Hooe, William Hartshorne, Josiah Watson, Thomas Porter, Richard Conway, William Herbert, Stephen Cook, William Wilson, Charles Lee, Ludwell Lee, Roger West, and Charles Simms.

Amount and division of the stock.

SECT. 3. *And be it further enacted, by the authority aforesaid*, That a share in the stock of the said bank shall be two hundred dollars, or the equivalent thereof in other specie, and that the number of shares shall not exceed seven hundred and fifty, and subscriptions shall be kept open under the direction of the president and directors of the said bank, until the said number of shares shall be filled.

Sums subscribed, when and how to be paid.

SECT. 4. *And be it further enacted*, That the sums subscribed as aforesaid, shall be paid in the following manner, viz. Every subscriber at the time of subscribing shall pay ten dollars in specie, for each share by him subscribed, to the person or persons appointed by this act to take in subscriptions, and that the remaining one hundred and ninety dollars for each share, shall be paid to the president and directors of the bank elected agreeably to this act, as follows: Forty dollars as aforesaid, by every subscriber, for each share subscribed by him, within fifteen days from the election of said directors; twenty-five dollars as aforesaid by every subscriber for each share

subscribed by him in thirty days from the election of the said directors; fifty dollars as aforesaid, by every subscriber, for each share subscribed by him, in sixty days from the election of the said directors; and the remaining seventy-five dollars as aforesaid, by every subscriber, for each share subscribed by him, in one hundred and twenty days from the election of the said directors. And if any such subscriber shall fail to make any of the future payments, he shall forfeit the sum or sums by him before paid, for the use of the bank, and shall also forfeit his right to his subscription. And the president and directors shall be at liberty to sell and dispose of such forfeited shares for the use and benefit of the bank.

Stockholders, how to vote.

SECT. 5. *And be it further enacted*, That every subscriber shall be entitled to vote by himself, his agent, or proxy appointed under his hand and seal, at all elections in virtue of this act, and shall have as many votes as he has shares, as far as ten shares, and not more than one vote for every five shares thereafter. And every stockholder may sell and transfer his stock in the said bank, or any part thereof, at his pleasure, not being less than one complete share or shares, the transfer being made in the bank books in the presence and with the approbation of the proprietor or his lawful attorney; the purchaser then to be entitled to all the rights which the original proprietor enjoyed.

Stock, how to be transferred.

Meeting of the subscribers to be called when 150 shares are subscribed.

SECT. 6. *And be it further enacted*, That as soon as one hundred and fifty shares be subscribed, the persons hereby empowered to take in subscriptions, or any seven of them, may call a meeting of the subscribers at the town of Alexandria, after not less than four successive weeks notice, in at least one of the Alexandria, Winchester, Dumfries, Fredericksburg, and Richmond newspapers; and the subscribers assembled in consequence of such notice shall choose by ballot from among the subscribers by a majority of votes of such as shall be present, or by proxy, nine directors for the term of one year thereafter, and on the same day annually, for and during the continuance of this act, a like election shall be made, and in case of refusal, death, resignation, disqualification, or removal out of this Commonwealth, of any director, the remaining directors at their next meeting thereafter, shall elect by ballot another person, qualified as aforesaid, in his place for the residue of the year. The directors, or any seven of them, shall at the first meeting after every

Number of directors, and time of electing them.

general election, elect by a majority of members present, by ballot, from among the stockholders, a president, who shall, whether a director or not, be thereupon entitled to all the powers and privileges of one, and if he was before a director, another director shall be elected as aforesaid, so as to keep up the number of directors prescribed by this act, exclusive of the president; and in case of refusal, death, resignation or removal out of this Commonwealth of the president, the directors shall meet as soon as conveniently can be thereafter, and elect another person for president in the manner before directed.

And a president.

Subscribers to be a body politic; by what name and how long to continue.

SECT. 7. *And be it further enacted*, That all those who shall become subscribers to the said bank, their successors and assigns, shall be, and they are hereby created and made a body politic, by the name and stile of the President, Directors, and Company of the Bank of Alexandria, and so shall continue until the first day of January, one thousand eight hundred and three, and no longer: And by that name shall have succession, and shall be and are hereby made able and capable in law to have and purchase, receive, possess, enjoy and retain, to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of. And by the name aforesaid may sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in any court of law or equity in this Commonwealth or elsewhere. And may do and execute every other matter and thing by the name aforesaid, that they are authorised to do by virtue of this act. *Provided always*, that the lands, tenements and hereditaments, which it shall be lawful for the said president, directors, and company to hold, shall be only such as shall be requisite for their immediate accommodation in relation to the convenient transacting their business, and such as shall have been bona fide mortgaged to them by way of security, or conveyed to them in satisfaction for debts, previously contracted in the course of their dealings. *Provided also*, that the said president and directors shall not purchase public securities of the United States, or of any individual state, or any goods, chattels, or effects, unless such as are sold by virtue of an execution, upon a judgment obtained by them, except such articles as may be necessary for them in transacting the business of the bank; but it shall and may be lawful for them to receive

May purchase real and personal estates.

Restrictions as to purchases of lands, tenements and hereditaments;

And of public securities, or any goods or chattels.

and hold such securities, goods, chattels and effects by way of deposit for advances made by them to any person or persons, and on failure of payment, the same to sell and dispose of at public sale for ready money.

Directors to meet quarterly; five to constitute a board.

SECT. 8. *And be it further enacted*, That there be a meeting of the directors quarterly for the purpose of regulating the affairs of the bank, any five of whom shall make a board, and that the board have power to adjourn from time to time, and the president or any three of the directors may call a special meeting at any other time they may think necessary.

To regulate mode of doing business; To appoint officers;

SECT. 9. *And be it further enacted*, That the board of directors shall determine the manner of doing business, and the rules and forms to be pursued, appoint and pay the various officers which they may find necessary, and dispose of the money and credit of the bank, for the interest and benefit of the proprietors. And are hereby authorised to receive for discounts made at the said bank, at a rate not exceeding six per centum per annum; and make at the expiration of the first year, a dividend of the profit of such part thereof as they may think prudent, and thereafter shall make half yearly dividends.

May take six per cent. per annum for discounts, and make dividends of profits.

Cashier, how to be appointed.

SECT. 10. *And be it further enacted*, That in the appointment of a cashier of the said bank, a majority of the votes of seven directors shall be necessary to a choice.

Three directors to be chosen quarterly to inspect the business.

SECT. 11. *And be it further enacted*, That the board shall at every quarterly meeting choose three directors, to inspect the business of the bank for the ensuing three months, and the inspectors so chosen, or any two of them, shall on the evening of every Saturday, examine into the state of the cash account, and of the notes received and issued, and see that those accounts are regularly balanced and transferred.

Penalty on directors or others for any fraud or embezzlement

SECT. 12. *And be it further enacted*, That any director, officer or other person holding any share, or capital of the said bank stock, who shall commit any fraud or embezzlement touching the money or property of the said bank, shall be liable to be prosecuted in the name of the Commonwealth by indictment for the same in any court of law for the district or county wherein the offence shall be committed, and upon conviction thereof, shall, besides the remedy that may be had by action in the name of the President, Directors and Company of the Bank of

Alexandria, for the fraud aforesaid, forfeit all his share and stock in the said bank, to the company.

Stockholders, how far responsible on failure of the capital stock.

SECT. 13. *And be it further enacted*, That no stockholder, subscriber, or member of the said company, shall be answerable for any losses, deficiencies, or failure of the capital stock of the said bank for any more or larger sum or sums of money whatsoever, than the amount of the stock, stocks or shares which shall appear by the books of the said company to belong to him, at the time or times when such loss or losses shall be sustained, except as is hereafter excepted, that is to say: If the total amount of the debts which the said company shall at any time owe, whether by bond, bill, note, or other contract, shall exceed four times the amount of the capital stock of the said bank, over and above the monies actually deposited in the bank for safe keeping, then in case of such excess, the directors under whose administration it shall happen, shall be liable for such excess, in their natural and private capacities, and an action or actions of debt may be brought against them, or any of them, their heirs, executors or administrators, in any court of record within this Commonwealth, by any creditor or creditors of the said company, and may be prosecuted to judgment and execution; any condition, covenant, or agreement to the contrary, notwithstanding; but this shall not be construed to exempt thes aid body politic, or the lands, tenements, goods or chattels of the same, from being also liable for, and chargeable with the said excess. Such of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the mayor of the town of Alexandria, for the time being, and to the stockholders at a general meeting, which he or they shall have power to call for that purpose. And in case the directors, by whose act such excess shall be occasioned, shall not have property sufficient to pay the amount of such excess, then each and every stockholder shall be liable in their private capacities, for the deficiency, in proportion to their respective shares in the said bank.

Directors responsible when the debts exceed a certain sum.

Exception in favor of directors absent or dissenting.

Stockholders responsible if the property of the directors be insufficient.

No note to be issued for less

SECT. 14. *And be it further enacted*, That the said president and directors shall not issue any note for a

smaller sum than five dollars, and that the said president and directors shall once in every year, lay before the governor and council of this Commonwealth, an account, truly stating the situation of the bank and its funds. than five dollars. An account of the situation of the bank to be laid annually before the governor and council.

SECT. 15. *And be it further enacted*, That no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of the stockholders at a general meeting; the directors shall make such compensation to the president for his extraordinary services and attendance at the bank, as shall appear to them reasonable. Allowances to directors and president, how to be made.

SECT. 16. *And be it further enacted*, That none but a stockholder, being a resident of this Commonwealth, shall be eligible as a president or director. Who eligible as president or directors.

SECT. 17. *And be it further enacted*, That every cashier or treasurer, before he enters upon the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, for his good behaviour in office. Cashier to give bond with security.

SECT. 18. *And be it further enacted*, That it shall be lawful for any person, copartnership, or body politic, to subscribe for such or so many shares, as he, she, or they shall think fit, not exceeding fifty; but it shall not be lawful for any person, copartnership, or body politic, to subscribe for more than twenty-five shares in any one month. Who may become subscribers.

SECT. 19. *And be it further enacted*, That in case it shall at any time happen, that an election of directors shall not be made on any day, when pursuant to this act, it ought to have been made, it shall and may be lawful on any other day, to hold and make an election of directors in such manner as shall have been regulated by the laws and ordinances of the said president and directors. Directors, when they may be chosen.

SECT. 20. And whereas it is absolutely necessary, that debts due to the said bank should be punctually paid, to enable the directors to calculate with certainty and precision, on meeting the demands that may be made upon them, *Be it enacted*, That whenever any person or persons, indebted to the said bank, on bonds, bills, or notes, given or endorsed by them, with an express consent in writing, that they may be negotiable at the said bank, and shall refuse or neglect to make payment at the time the same may become due, and a suit shall be thereupon commenced against such defaulter, and a *capias ad respondendum* returned executed, or a copy left at the usual Debts due to the bank, how to be recovered.

place of residence of such defaulter, at least ten days before the return day of such writ, the court shall cause an issue to be made up in such a suit, and a trial shall be peremptorily had at the first court to which such writ shall be returnable, and judgment rendered accordingly; but if the writ shall not be executed, or a copy thereof left as aforesaid, ten days before the return day thereof, then the issue shall be made up and trial had at the next succeeding court, and in either case if the defendant or defendants do not appear and plead to issue as aforesaid, judgment shall be rendered against him or them by default, and from the judgment given in such cases there shall be no appeal, writ of error or *supersedeas*, nor shall the defendant or defendants have a right to replevy the goods and chattels taken upon an execution issued upon a judgment obtained as aforesaid; and for the better direction of sheriffs, the clerk shall endorse on such executions, that the defendant hath not a right to replevy, and such writs may be made returnable, and trials may be had as above directed, at the district court, or at the quarterly or monthly courts of a county or corporation. And any creditor of the said company may proceed and have the same remedy against them, as by this act is given the said company against their debtors.

Creditors may have the same remedy against the company.

The state not bound to support the bank.

SECT. 21. *Provided*, That nothing in this act shall be construed as a pledge of public faith, that the legislature will in time coming enlarge the aforesaid stock, or shall be subject to the support thereof.

Death to forge notes or checks.

SECT. 22. *And be it further enacted*, That if any person or persons shall forge or counterfeit any of the notes or checks of the said bank, or pay or tender in payment or in any manner pass or offer to pass such forged or counterfeited note or check, knowing the same to be forged or counterfeited, and shall thereof be convicted in any court of law, having criminal jurisdiction within this Commonwealth, he, she, or they shall be adjudged a felon or felons, and shall suffer death without benefit of clergy.

SECT. 23. This act shall commence and be in force from the passing thereof.

CHAP. LXXVII.

An act for establishing a bank in the city of Richmond.

(Passed December 23, 1792.)

Preamble.

SECT. 1. WHEREAS it is conceived that well regulated banks tend greatly to the advantage of agriculture, commerce and manufactures:

Bank established at Richmond.

SECT. 2. *Be it therefore enacted*, That a bank shall be established at the city of Richmond, to be called the Bank of Richmond; the capital stock whereof shall not exceed four hundred thousand dollars, divided into two thousand shares, each share to consist of two hundred dollars, and that subscriptions towards constituting the said stock shall on the first day of March next, be opened at the city of Richmond, under the superintendance of James M'Clurg, John Marshall, William Foushee, John Harvie, James Heron, Anthony Singleton, Nathaniel Anderson, John Hopkins, Robert Gamble, and George Pickett;—At Norfolk, under the superintendance of Thomas Newton, jun. John Kearnes, George Kelly, James Taylor, Robert Taylor, Donald Campbell, Moses Myers, Willis Wilson, and James Young;—At Petersburg, under the superintendance of Thomas Griffin Peachey, James Campbell, Joseph Jones, Robert Bolling, William Barksdale, Archibald Gracie, David Buchanan, Joseph Weiseger and John Grammer;—And at Fredericksburg, under the superintendance of Robert Patton, Fontaine Maury, James Summerville, Stephen Lacoste, and William S. Stone; which subscriptions shall continue open thirty days, at the expiration of which, the books containing the same shall be shut, and if more than three hundred shares shall be subscribed, either at Norfolk, or at Petersburg, or Fredericksburg, the persons herein appointed at each of those places respectively, to superintend the said subscriptions, shall strike from each person's subscription, in equal proportion, so much thereof, avoiding fractions or parts of shares, as will reduce the whole subscription, at such place, to three hundred shares, and the books containing such subscriptions shall, together with the money paid in consequence thereof, be immediately sent to the persons herein appointed to super-

Amount and division of the stock.

Subscriptions when and where to be opened.

intend the subscriptions at the city of Richmond. And provided the subscriptions made at the city of Richmond, shall exceed eleven hundred shares at the expiration of the aforesaid ten days, adding thereto so many shares as may be unsubscribed at Norfolk, Petersburg, or Fredericksburg, so much shall be stricken therefrom as will reduce the same to eleven hundred shares, besides the shares which may be unsubscribed at any other place; and provided the sums subscribed within the said ten days, shall not amount to two thousand shares, the subscription at Richmond, as soon as the persons appointed to superintend the same, shall have opportunity of examining and ascertaining the deficiency, and shall continue open until the full amount of two thousand shares shall be fully subscribed; and if any person, when the Richmond subscription may be opened the second time, shall desire to enter his name as subscribing to the establishment of Norfolk, Petersburg, or Fredericksburg, it shall be lawful for him to subscribe accordingly on the said Richmond books, placing the name of the town, of which he desires to become a subscriber, against his own name on the said subscription, and in such case the said town shall receive the same benefit therefrom, as if such subscription had been made at such town, whilst the books were there kept open.

When and how to be paid.

Sect. 3. The sums subscribed as aforesaid, shall be paid in gold or silver in the following manner, viz: Every subscriber shall at the time of subscribing, pay twenty dollars in specie for each share by him subscribed, to the person or persons appointed by this act to take in subscriptions, and that the remaining one hundred and eighty dollars for each share, shall be paid to the president and directors of the bank, elected agreeably to this act as follows, forty dollars, as aforesaid, by every subscriber, for each share subscribed by him, within thirty days from the election of the said directors; forty dollars as aforesaid, by every subscriber for each share subscribed by him, in ninety days from the election of the said directors; fifty dollars as aforesaid, by every subscriber, for each share subscribed by him, in one hundred and twenty days from the election of the said directors; and the remaining fifty dollars as aforesaid, by every subscriber, for each share subscribed by him, in one hundred and eighty days from the election of the said directors.

SECT. 4. If any such subscriber shall fail to make any of the future payments, he shall forfeit the sum or sums by him before paid, for the use of the bank, and shall also forfeit his right to his subscription; and the president and directors shall sell and dispose of such forfeited shares, for the use and benefit of the bank.

How stockholders shall vote.

SECT. 5 Every subscriber shall be entitled to vote by himself, his agent, or proxy appointed under his hand and seal, at all elections in virtue of this act, and shall have as many votes, as he has shares as far as ten shares, and not more than one vote for every five shares thereafter.

Stock, how it may be transferred.

SECT. 6. Every stockholder may sell and transfer his stock in the said bank, or any part thereof, at his pleasure, not being less than one complete share or shares, the transfer being made in the bank books, in the presence and with the approbation of the proprietor, or his lawful attorney, and such purchaser shall be entitled to all the rights which the original proprietor enjoyed.

A meeting of the subscribers to be called when 400 shares are subscribed.

SECT. 7. *And be it further enacted*, That as soon as four hundred shares shall be subscribed, the persons hereby empowered to take in subscriptions, or any four of them, may call a meeting of the subscribers at the city of Richmond, after giving notice thereof, four weeks successively, in at least one of the Richmond newspapers, and the subscribers assembled in consequence of such notice, shall choose by ballot, from among the subscribers, by a majority of votes, of such as shall be present, or by proxy, twenty directors for the term of one year thereafter, and on the same day annually, for and during the continuance of this act, a like election shall be made, and in case of refusal, death, resignation, disqualification, or removal out of this Commonwealth, of any director, the remaining directors at their next meeting, shall elect by ballot, another person qualified as aforesaid, in his stead, for the residue of the year. The directors, or any eleven of them, shall at their first meeting, after every general election, elect by a majority of members present, by ballot from among the stockholders, a president, who shall, whether a director or not, be thereupon entitled to all the powers and privileges of one, and if he was a director, at the time of his being elected a president, another director shall be elected, as aforesaid, so as to keep up the number prescribed by this act, exclusive of the president, and in case of refusal, death, resignation or removal out of this Commonwealth, of the

Number of directors, and time and mode of choosing them; and a president;

president, the directors shall meet as soon thereafter, as they conveniently can, and elect another person for president, in the manner before directed.

Subscribers to be a body politic; by what name and how long to continue.

SECT. 8. *And be it further enacted*, That all those who shall become subscribers to the said bank, their successors and assigns shall be, and they are hereby created and made a body politic, by the name and stile of the President, Directors and Company of the Bank of Richmond, and so shall continue until the first day of January, one thousand eight hundred and four, and no longer; and by that name shall have succession, and be able and capable in law to have, receive, purchase, possess, enjoy and retain to them and their successors, lands, tenements, hereditaments, rents, goods, chattels and effects of what nature or quality soever, and the same to sell, grant, demise, alien or dispose of. And by the name aforesaid, to sue or be sued, plead and be impleaded, answer and be answered in any court of law or equity in this Commonwealth or elsewhere. *Provided always*, that the president, directors and company shall only hold such lands, tenements and hereditaments, which shall be requisite for their immediate accommodation as to the convenient transaction of their business, and such as shall have been *bona fide* mortgaged to them by way of security for, or conveyed to them in satisfaction of, debts previously contracted in the course of their dealings. *Provided also*, that the president and directors, shall not purchase public securities of the United States, or of any individual state, or any goods, chattels, or effects, unless it be such as are sold by virtue of an execution upon a judgment obtained by them or deposits forfeited, excepting such articles as may be necessary for them in transacting the business of the bank, but it shall be lawful for them to receive and hold such securities, goods, chattels and effects, by way of deposit for advances made by them to any person or persons, and on failure of payment, the same to sell and dispose of at public auction, for ready money.

May purchase real and personal estates.

Restriction as to purchases of lands, &c.

and of public securities or any goods or chattels.

Directors to meet quarterly; a board, how constituted.

SECT. 9. There shall be a meeting of the directors, quarterly, for the purpose of regulating the affairs of the bank, any seven of whom shall make a board, with power to adjourn from time to time, of whom the president shall always be one, except in cases of sickness or necessary absence, in which cases the director present, having the greatest number of votes, shall act as presi-

dent *pro tempore;* and the president or any three of the directors may call a special meeting at any other time they may think necessary. Special meetings how to be called;

SECT. 10. The board of directors shall determine the manner of doing business, and the rules and forms to be pursued, appoint and pay the various officers which they may find necessary, and dispose of the money and credit of the bank, for the interest and benefit of the proprietors; and are authorised to receive for discounts made at the said bank, a rate not exceeding six per centum per annum; and at the expiration of the first year, to make a dividend of the profit, or of such part thereof, as they may think prudent, and thereafter shall make half yearly dividends. to regulate the business of the bank. To appoint officers. May take 6 per cent. per annum for discounts. And make dividends of profits.

SECT. 11. That in the appointment of a cashier of the said bank, a majority of the votes of the whole number of the directors shall be necessary to a choice. Cashier, how to be appointed.

SECT. 12. That the board shall, at every quarterly meeting, choose three directors to inspect the business of the bank for the ensuing three months, and the inspectors so chosen, or any two of them, shall once at least in every eight days examine into the state of the cash account, of the notes received and issued, and see that those accounts are regularly balanced and transferred. Three directors to be chosen quarterly to inspect the business.

SECT. 13. *And be it further enacted*, That any president, director, cashier, clerk, door-keeper, or other officer or servant who shall commit any fraud or embezzlement touching the money or property of the said bank, shall be liable to be prosecuted in the name of the Commonwealth, by indictment for the same in any court of law, for the county or district wherein the offence shall be committed, and upon conviction thereof, shall besides the remedy that may be had by action in the name of the president, directors and company of the bank of Richmond, for the fraud aforesaid, forfeit all his share and stock, in the said bank, to the company, and moreover shall suffer imprisonment, or such other corporal punishment, as the court may, on conviction thereof, direct. Penalty on president, directors or others for any fraud or embezzlement.

SECT. 14. No stockholder, subscriber, or member of the said company shall be answerable for any losses, deficiencies or failure of the capital stock of the said bank, or for any more or a larger sum or sums of money whatsoever, than the amount of the stock, stocks, or shares which shall appear by the books of the said company, Stockholders how far responsible on failure of the capital stock.

to belong to him at the time or times when such loss or losses shall be sustained, and when the losses, deficiencies and failure shall be for more than the said capital stock, shall be answerable in their several private capacities for any greater sum than in proportion to the amount of their stock, stocks, or shares respectively, except as is hereafter excepted, that is to say: If the total amount of the debts, which the said company shall at any time owe, whether by bond, bill, note or other contract, shall exceed four times the amount of the capital stock of the said bank, over and above the monies actually deposited in the bank for safe keeping, the directors, under whose administration such excess shall happen, shall be liable for such excess in their private capacities, and an action or actions of debt may be brought against them or any of them, their heirs, executors, or administrators, in any court of record within this Commonwealth, by any creditor or creditors of the said company, and may be prosecuted to judgment and execution, any condition, covenant, or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said body politic, or the lands, tenements, goods, or chattels of the same from being also liable for and chargeable with the said excess. Those of the said directors who may have been absent when the said excess was contracted or created, or who may have dissented from the resolution or act whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the mayor of the city of Richmond, for the time being, and to the stockholders at a general meeting, which he or they shall have power to call for that purpose. If the directors by whose act such excess shall be occasioned, have not property sufficient to pay the amount of such excess, then each and every stockholder shall be liable in their respective private capacities for the deficiency, in proportion to their respective shares in the said bank. The president and directors shall not issue any note for a smaller sum than five dollars, and shall once in every year, lay before the governor and council of this Commonwealth, an account, truly stating the situation of the bank and its funds

Directors responsible if the debts exceed a certain sum.

Exception in favor of directors absent or dissenting.

Stockholders responsible if the property of the directors be insufficient.

Compensation to the presi-

SECT. 15. The directors shall make such compensation to the president for his extraordinary services and

attendance at the bank, as shall appear to them reasonable; and no director shall be entitled to any emolument, unless the same shall have been allowed by a majority of stockholders at a general meeting. dent and directors how to be made.

SECT. 16. None but a stockholder, and resident of this Commonwealth, shall be eligible as a president or director. Who eligible as president or directors.

SECT. 17. Every cashier or treasurer, before he enters upon the duties of his office, shall give bond with two or more securities, to the satisfaction of the directors, for his good behaviour in office. Cashier to give bond with security.

SECT. 18. It shall be lawful for any person, copartnership, or body politic, to subscribe for such or so many shares, as he, she, or they may think fit, not exceeding fifty; but it shall not be lawful for any person, copartnership, or body politic, to subscribe for more than twenty-five shares in any one month. Who may become subscribers.

SECT. 19. If an election of directors shall not be made, on any day when it ought to have been made pursuant to this act, it shall be lawful to make an election of directors on any other day, in such manner as shall be regulated and fixed by the laws and ordinances of the said president and directors. Directors when they may be chosen.

SECT. 20. *And whereas* it is necessary that debts due to the said bank should be punctually paid, to enable the directors to calculate with certainty and precision on meeting the demands that may be made upon them: *Be it therefore enacted*, That every person or persons indebted to the said bank, on bonds, bills, or notes, given or endorsed by them, with an express consent in writing, that they may be negotiable at the said bank, and shall refuse or neglect to make payment, at the time the same may become due, and a suit shall be thereupon commenced against such defaulter, and a *capias ad respondendum* returned executed, or a copy left at the usual place of residence of such defaulter, at least ten days before the return day of such writ, the court shall cause an issue to be made up in such suit, and a trial shall be peremptorily had at the first court to which such writ shall be returnable, and judgment rendered accordingly. *Provided nevertheless*, That if good cause be shewn to the court for a continuance of the suit to the succeeding court, it may be lawful to continue the same, the party praying the continuance giving bond and security, to be approved of by Debts due to the bank, how recoverable.

the court; to abide by the judgment to be rendered in the said suit.

SECT. 21. If the writ shall be executed, or a copy left as aforesaid, within less than ten days before the return day thereof, then the issue shall be made up and trial had at the next court succeeding the term to which such precept shall have been returnable, and in either case if the defendant or defendants, do not appear and plead to issue, judgment shall be rendered against him or them by default, and there shall be no appeal, writ of error, or *supersedeas* granted from the judgments given in such cases, nor shall the defendant or defendants have a right to replevy the goods and chattels taken upon an execution issued on a judgment obtained as aforesaid; and for the better direction of sheriffs, serjeants, or other officers, the clerk shall endorse on such execution, that "no security can be taken." Such writs may be made returnable, and trials had as above directed, at the district court, or at the quarterly or monthly courts of a county or corporation. And any creditor of the said company, may proceed and have the same remedy against them, as by this act is given the said company against their debtors.

The same remedy extended to creditors of the bank.

SECT. 22 If any person or persons shall alter, erase, forge, or counterfeit, any of the notes or checks of the said bank, or pay or tender in payment, or in any manner pass or offer to pass, such altered, erased, forged or counterfeited note or check, knowing the same to be altered, erased, forged or counterfeited, and shall thereof be convicted in any court of law having criminal jurisdiction within this Commonwealth, he, she, or they shall be adjudged a felon or felons, and shall suffer death without benefit of clergy.

Death to forge, alter or erase notes or checks.

SECT. 23 *Provided always*, That nothing in this act shall be construed as a pledge of public faith, that the legislature will in time coming enlarge the aforesaid stock, or shall be subject to the support thereof.

The state not bound to support the bank.

SECT. 24. *And be it further enacted*, That it shall be lawful for the directors aforesaid, to establish offices wherever they shall think fit within the state, either with separate directions or agents, and that any town holding three hundred shares, shall have a right to an agent, who shall at the risk and expence of the bank forward bills offered for discount to the directors, and if approved make the advance, and when due collect the money. *Provid-*

Directors may establish offices at other places in the state.

ed, that no office established in any town as aforesaid, shall be discontinued, unless there shall be for the space of three months a deficiency in the number of shares required by this act to entitle such town to an office of discount. And that no office of discount established by virtue of this act, shall be compelled to pay in specie any other notes than such as shall or may be issued by such office.

CHAP. LXXVIII.

An act directing duplicates of a warrant and certificates to be issued to James Upshaw, junior, Christopher Robertson, and others.

(Passed November 15, 1792.)

Duplicate warrants and certificates to James Upshaw, jun.

to Christopher Robertson,

to Samuel Coleman,

to William Hill,

and to John Sledd.

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall issue to James Upshaw, junior, a duplicate of a warrant in the name of John Edmondson, for the sum of twenty-one pounds three shillings, in lieu of the original warrant which he hath lost; also to Christopher Robertson, duplicates of two military certificates, one in the name of David Williams, a lieutenant, dated the eighteenth day of June, one thousand seven hundred and eighty-three, for the sum of fifty pounds, the other in the name of John Beasley, dated the twenty-seventh day of May, one thousand seven hundred and eighty-seven, for the sum of twenty-seven pounds two shillings and seven pence, in lieu of the originals, which he hath lost; also to Samuel Coleman, a duplicate of a military certificate in his own name, for the sum of fifty-four pounds six shillings and eight pence; also to William Hill, duplicates of four military certificates, one in the name of John Bartlett, for one hundred and two pounds three shillings and ten pence, one in the name of George Fitzgerald, for thirty-six pounds, one in the name of Daniel Tyler, for seventeen pounds eight shillings and four pence, and one in the name of Osborne Coffee, for the sum of eighteen pounds fifteen shillings and four pence; and also to John Sledd, a duplicate of a military certificate in his own name, for the sum of fifty

pounds eleven shillings and seven pence, in lieu of the originals which they have respectively lost

Bond and security to be given by them to indemnify the Commonwealth and the United States.

SECT. 2. *Provided always, and be it further enacted*, That the said James Upshaw, Christopher Robertson, Samuel Coleman, William Hill, and John Sledd, shall, previous to the obtaining the said duplicates, respectively enter into bond with sufficient security, to be approved of by the executive, to indemnify the Commonwealth, and the United States.

CHAP. LXXIX.

An act directing duplicates of certificates and warrants to be issued to certain persons.

(Passed December 13, 1792.)

Duplicate certificates and warrants to be issued to Joseph Sandidge,

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall issue to Joseph Sandidge, duplicates of two military certificates, one in his own name, dated the twenty-eighth day of November, one thousand seven hundred and eighty-three, for the sum of fifteen pounds eight shillings and three pence, the other in the name of John Harris, dated the twenty-second day of January, one thousand seven hundred and eighty-three, for eighty-nine pounds four shillings and three pence; also duplicates of six military certificates to

to Lockett Mitchell,

Lockett Mitchell, to wit, one in the name of Daniel Dunnevant, dated August the fourth, one thousand seven hundred and eighty-three, for fifteen pounds eleven shillings and eight pence, one other in the name of Simon Golding, dated the twentieth day of May, one thousand seven hundred and eighty-three, for fifty-four pounds sixteen shillings and five pence, one other in the name of William Belches, dated the second day of December, one thousand seven hundred and eighty-three, for fifteen pounds twelve shillings, one other in the name of Sterling Clack, dated the sixth day of December, one thousand seven hundred and eighty-three, for thirteen pounds nineteen shillings, one other in the name of Alexander Elan, dated the fourteenth day of November, one thousand seven hundred and eighty-three, for fifty-nine pounds

eleven shillings and six pence, and also one other certificate in the name of Edward Walker, for the sum of fifty-six pounds fourteen shillings and eight pence; also to Nathan Ryan, duplicates of two pension warrants in the name of James Powell Edmondson, for the sum of twenty-four pounds each; also to Alexander St. Clair, a duplicate of a military certificate in the name of John M'Glamery, for the sum of thirty-six pounds; also to John Guthry, a duplicate of a military certificate in the name of William Herbert, dated the twenty-first day of March, one thousand seven hundred and eighty-three, for eighty-eight pounds fifteen shillings, and a duplicate of a loan-office certificate, number one thousand nine hundred and thirty-nine, for one pound nine shillings and five pence; also a duplicate of a military certificate to Charles Anderson in his own name, for the sum of thirty-six pounds, in lieu of the original warrants which the said Sandidge, Mitchell, Nathan Ryan, Alexander St. Clair, John Guthry, and Charles Anderson, have respectively lost.

to Nathan Ryan,

to Alexander St. Clair,

to John Guthry,

and to Charles Anderson.

SECT. 2. *Provided nevertheless*, That the auditor of public accounts shall not issue a duplicate certificate in the name of Edward Walker, until the date and number of the original receipt be ascertained.

Number and date of certificate in the name of Edward Walker to be ascertained before duplicate is issued.

SECT. 3. *Provided always, and be it further enacted*, That the said Joseph Sandidge, Lockett Mitchell, Nathan Ryan, Alexander St. Clair, John Guthry, and Charles Anderson, shall, previous to obtaining the said duplicates, respectively enter into bond with sufficient security, to be approved of by the executive, to indemnify the Commonwealth, and the United States.

Bond and security to be given by them to indemnify the Commonwealth and the United States.

SECT. 4. This act shall commence in force from and after the passing thereof.

CHAP. LXXX.

An act directing the register of the land-office to issue a Land Warrant to Bellfield Cave.

(Passed November 17, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That the register of the land-office shall, and he is hereby directed to issue a land warrant or warrants to Bellfield

A land warrant to be issued to Bellfield Cave.

Cave, for the amount of certain money paid by him into the treasury of this Commonwealth, under an Act for calling in and funding paper money, apportioning the quantity of land to the value of the said payment into the treasury, at the time the same was made.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXXI.

An act authorising the Register of the Land Office to issue a Land Warrant in favor of Robert Shelton and others.

(Passed December 12, 1792.)

Land warrants to be issued to Robert Shelton,

SECT. 1. *BE it enacted by the General Assembly*, That it shall be lawful for the register of the land-office, and he is hereby required, upon application to him made, to issue a warrant or warrants in favour of Robert Shelton, for fourteen hundred twenty-four and a half acres of waste and unappropriated land within this state; also a warrant or warrants in favour of John Carey, who intermarried with Elizabeth one of the daughters of John Williams, deceased, who served as a lieutenant in the Virginia regiment, commanded by George Washington, in the year one thousand seven hundred and fifty-eight, for one thousand acres; and to the legal representatives of Martha, the other daughter of the said John Williams, one thousand acres of waste and unappropriated land within this state.

John Carey, and the representatives of Martha, the daughter of John Williams, deceased.

Shelton to produce auditor's certificate entitling him to the land.

SECT. 2. *Provided* that the said Robert Shelton shall produce to the register a certificate of or certificates from the auditor of public accounts, entitling him to the said quantity of land.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXXII.

An act for issuing Certificates to several persons.

(Passed December 13, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts shall issue to Susanna Woodward, a certificate for seven hundred and thirty-five pounds weight of beef, rating the same at the price heretofore allowed by law. Certificates to be issued to Susanna Woodward,

SECT. 2. *And be it further enacted*, That the auditor of public accounts shall in like manner issue a certificate to William Street, for three hundred and seventy-five pounds weight of beef, after and at the rate heretofore allowed by law. and to William Street.

SECT. 3. He shall also issue to the said William Street, a certificate for the hire of a waggon and team fifteen days for the purpose of removing state stores from the city of Richmond to the Point of Fork, in the year one thousand seven hundred and eighty-one, estimating the hire thereof at the sum of ten shillings per day.

SECT. 4. This act shall commence in force from and after the passing thereof.

CHAP. LXXXIII.

An act directing the auditor of public accounts to issue Certificates to certain persons.

(Passed December 17, 1792.)

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts, shall, and he is hereby directed and required, on application to him made, to issue to John Cooke, a certificate for sixty days employ of a sloop in public service, during the late war, estimating the daily hire of the said sloop at forty shillings. Certificates to be issued to John Cooke,

SECT. 2. He shall in like manner issue a certificate to Richard Sampson, for eighty-one bushels and one peck to Richard Sampson,

of wheat delivered at Dover mill in the county of Goochland for public use, during the late war, rating the same at the price heretofore allowed by law.

and to the administrator of Philip West.

SECT. 3. The auditor of public accounts shall also issue to Thomas Spratley, administrator of Philip West, deceased, a certificate for forty barrels of corn furnished the public in the year one thousand seven hundred and eighty-one, estimating the same at ten shillings per barrel.

SECT. 4. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXXIV.

An act authorising the auditor to issue to the heir and representative of colonel Joseph Hutchings, deceased, a loan-office certificate for property destroyed in the Borough of Norfolk.

(Passed October 19, 1792.)

Preamble.

SECT. 1. WHEREAS it has been represented to the General Assembly, that colonel Joseph Hutchings, deceased, was seized and possessed of certain property in the borough of Norfolk, which at the time of the destruction thereof was burnt by the troops of this Commonwealth; and whereas the commissioners by law appointed to estimate the value of property destroyed in the said borough, have valued that of the deceased to the sum of one thousand seven hundred and seventeen pounds, and reported the same as of and belonging to a friend of the late revolution; but the said colonel Joseph Hutchings dying in captivity on board one of the British ships of war, and his children being of tender years at the time of his death, no application has been made for such compensation as has been extended to others in similar circumstances:

A loan office certificate to be issued to the heir of Joseph Hutch-

SECT. 2. *Be it therefore enacted by the General Assembly*, That the auditor of public accounts shall, and he is hereby directed, to issue to the heir and representative of the said colonel Joseph Hutchings, deceased, or to his

attorney legally authorised, a loan-office certificate or certificates for the said property, conformably to the valuation thereof by the commissioners, with warrants for the interest due thereon, after the rate of five per centum per annum from the period of the said valuation, in like manner as has been heretofore issued for property destroyed in the borough of Norfolk. ings, deceased.

SECT. 3. This act shall commence and be in force from and after the passage thereof.

CHAP. LXXXV.

An act for paying Anthony Walke, executor of Anthony Walke, deceased, for certain property destroyed in the Borough of Norfolk.

(Passed November 20, 1792.)

SECT. 1. WHEREAS certain property belonging to Anthony Walke, deceased, situated in the borough of Norfolk, was at the time of the destruction of the said borough, burnt by the troops of this state, and valued by the commissioners appointed for that purpose, to the sum of three hundred and seventy-two pounds, the amount of which valuation has been hitherto withheld, under an ill founded charge of disaffection to his country: Preamble.

SECT. 2. *Be it therefore enacted by the General Assembly*, That the auditor of public accounts shall issue to Anthony Walke, executor of the said Anthony Walke, deceased, or to his lawful attorney, a loan-office certificate for the amount of the said property, conformably to the valuation aforesaid, and in the manner heretofore pursued in the case of sufferers by fire in the said borough. A loan office certificate to be issued to Anthony Walke's executor.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. LXXXVI.

An act directing the auditor of public accounts to issue a certificate to John Stewart.

(Passed December 20, 1792.)

A certificate to be issued to John Stewart.

SECT. 1. *BE it enacted by the General Assembly*, That the auditor of public accounts, shall be, and he is hereby directed, on application to him made, to issue to John Stewart, a certificate for the sum of thirty-three pounds twelve shillings and nine-pence, for certain supplies furnished the ship Washington, captain Willis Wilson, who being on a cruise in the year one thousand seven hundred and seventy-nine, with a full complement of men, was compelled for the want thereof to put into port, and having received the same, was thereby enabled to pursue the objects of his cruise.

SECT. 2. This act shall commence in force from and after the passing thereof.

CHAP. LXXXVII.

An act concerning a warrant issued to John Cox.

(Passed November 12, 1792.)

A warrant issued to John Cox to be paid out of the aggregate fund.

BE it enacted by the General Assembly, That a warrant heretofore issued by the auditor of public accounts to John Cox, for the sum of two hundred pounds, shall be paid by the treasurer of this Commonwealth out of the fund denominated the aggregate fund.

CHAP. LXXXVIII.

An act for placing James M'Amish on the list of pensioners.

(Passed November 29, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented to this General Assembly, that James M'Amish, a soldier in the militia of this state, did at the siege of York, in the year one thousand seven hundred and eighty-one, receive a wound in his arm, whereby he is disabled from supporting himself by labour, and as this Assembly is at all times willing to make provision for such meritorious citizens as have suffered in the service of the Commonwealth:

James M'Amish placed on the list of pensioners.

SECT. 2. *Be it therefore enacted*, That the said James M'Amish, be put on the pension list, and that he receive the annual sum of fifteen pounds per annum during his life, to commence from the passage of this act.

SECT. 3. This act shall commence in force from and after the passing thereof.

CHAP. LXXXIX.

An act for increasing the pension of Richard Taylor.

(Passed December 15, 1792.)

Richard Taylor allowed a pension of £. 120 per annum.

SECT. 1. *BE it enacted by the General Assembly*, That in lieu of the pension heretofore allowed to Richard Taylor, late a captain in the navy of this Commonwealth, he shall annually have and receive the sum of one hundred and twenty pounds.

SECT. 2 This act shall commence and be in force from and after the passing thereof.

CHAP. XC.

An act for allowing Pensions to several persons.

(Passed December 20, 1792.)

Pensions to be paid annually to

Alexander Stewart,

Louis Rouse,

Benjamin Taylor,

Judith Carter,

Benjamin Blackburne,

Elinor Crittenden, Margaret Carr, Mary Whitt, Mary Dillard, Margery Groten, Alice M'Clintick, and Henry Salmon.

SECT. 1. *BE it enacted by the General Assembly*, That the several persons herein after named, shall be placed on the pension list, and annually have and receive the following allowances, payable in the like manner and proportions with other pensioners: Alexander Stewart, a soldier disabled by wounds received at the battle of the Point in the year one thousand seven hundred and seventy-four, the sum of eight pounds; Louis Rouse, a soldier wounded at the action near Petersburg in the year one thousand seven hundred and eighty-one, and thereby rendered unable to support himself by labour, the like sum of eight pounds; Benjamin Taylor, a soldier in the Illinois regiment, wounded in an engagement with the Indians in the year one thousand seven hundred and eighty-one, the sum of fifteen pounds; Judith Carter, widow of Charles Carter, who at an early period of the late war enlisted as a soldier, and died shortly after, leaving the said Judith and a numerous family of children in very indigent circumstances, the sum of twelve pounds; Benjamin Blackbourne, a serjeant in the regiment of riflemen commanded by colonel Charles Lewis, and disabled by several wounds received at the battle of the Point in the year one thousand seven hundred and seventy-four, the sum of fifteen pounds; Elinor Crittenden, Margaret Carr, Mary Whitt, Mary Dillard, Margery Groten, and Alice M'Clintick, widows of soldiers who died in the service of this Commonwealth during the late war, each the sum of twelve pounds; and Henry Salmon, who was a soldier in the service of the state, and in the course of his service received several wounds, which have of late broken out afresh and disabled him from gaining a livelihood by labour, the like sum of twelve pounds.

Arrears of Benjamin Taylor's pension to be paid.

SECT. 2. *And be it further enacted*, That the auditor of public accounts shall issue to the aforesaid Benjamin Taylor, warrants for the arrearage of pension due him from the twenty-eighth day of April, one thousand seven

hundred and eighty-nine, to the present time, rating the same at the sum of seven pounds ten shillings per annum.

Certain sums to be paid to Judith Carter, Elinor Crittenden, Henry Salmon, Margery Groten, Margaret Carr, and Alice M'Clintick, for their immediate relief.

SECT. 3. *And be it further enacted by the General Assembly*, That the auditor of public accounts shall in like manner issue a warrant to the said Judith Carter, Elinor Crittenden, and Henry Salmon, each for the sum of twelve pounds; and to the said Margery Groten, Margaret Carr, and Alice M'Clintick, each a warrant for the sum of ten pounds, for their immediate relief.

Thomas Finn allowed a pension of £. 75 per annum. Samuel Kirkpatrick allowed a pension of £. 15 per annum.

SECT. 4. *And be it further enacted*, That in lieu of the pension heretofore allowed to Thomas Finn, a captain of the artillery in the late war, he shall annually and henceforward receive and be allowed the sum of seventy-five pounds, and that in lieu of the pension heretofore allowed to Samuel Kirkpatrick, a soldier in the service of this Commonwealth, during the late war, he shall receive and be paid the annual sum of fifteen pounds.

SECT. 5. This act shall commence and be in force from and after the passing thereof.

CHAP. XCI.

An act authorising the register of the land-office to issue a duplicate land warrant to the heirs of John Wilkins, deceased.

(Passed November 29, 1792.)

A duplicate land warrant to be issued to Nathaniel Wilkins, for the heir of John Wilkins, deceased.

SECT. 1. *BE it enacted by the General Assembly*, That it shall be lawful for the register of the land-office, and he is hereby required, upon application to him made, to issue a duplicate warrant to Nathaniel Wilkins, in trust for the use and benefit of the heirs of John Wilkins, late of the county of Northampton, deceased, for seven thousand five hundred acres of waste and unappropriated land within this state, in lieu of a warrant which originally issued in the lifetime of the said John Wilkins, deceased, for the said quantity of land, and which was consumed by fire previous to the location thereof.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. XCII.

An act to emancipate Rose, and her children David, Judy, and Katy.

(Passed, November 21, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented that a negro woman named Rose, did on the twenty-ninth day of December, one thousand seven hundred and eighty-eight, pay to her then master and owner, Rice Parker, of the county of Caroline, the sum of fifty pounds in full for her future services and labor; and did also on the sixth day of March, one thousand seven hundred and eighty-nine, pay to the said Rice Parker the sum of twenty-five pounds for the future services and labor of two of her children named Judy and Katy; and did on the first day of March, one thousand seven hundred and ninety-two, pay to George Pickett, the sum of fifty pounds in full for the future services and labor of her son David; and the said Rose, alias Rosetta Hailstock, hath made application to this Assembly to pass an act for emancipating not only herself, but also her said children David, Judy, and Katy, which it is judged right to do:

Rose alias Rosetta Hailstock, and her children David, Judy, and Katy emancipated.

SECT. 2. *Be it therefore enacted*, That the said Rose, alias Rosetta Hailstock, together with her said three children David, Judy, and Katy, shall from and after the passing of this act, have and enjoy as full and ample freedom, as if they had severally been born free.

Saving the rights of all except Rice Parker and George Pickett.

SECT. 3. Saving to all persons, other than the said Rice Parker and George Pickett, and those claiming under them, all such right and title to the said Rose, alias Rosetta Hailstock, David, Judy and Katy, and the descendants of the females, as they or any of them could or might have if this act had never been made.

CHAP. XCIII.

An act for the manumission of a Negro named Saul.

(Passed, November 13, 1792.)

Preamble.

SECT. 1. In consideration of many very essential services rendered to this Commonwealth, during the late war, by a certain negro named Saul, now the property of George Kelly, of Norfolk;

The value of Saul a slave belonging to George Kelly to be ascertained and paid by the public;

SECT. 2. *Be it enacted by the General Assembly*, That the executive shall forthwith, or as soon as may be, appoint one fit person, and George Kelly, owner of the said slave, one other person, who shall jointly ascertain and fix the value of the said slave, and certify such valuation to the auditor of public accounts, who shall thereupon issue to the said George Kelly a warrant for the amount, payable out of the contingent fund.

After the valuation Saul to be emancipated.

SECT. 3. *And be it further enacted*, That from and after the said valuation, the said Saul shall have and enjoy full liberty and freedom, in like manner as if he had been born free.

SECT. 4. This act shall commence and be in force from and after the passing thereof.

CHAP. XCIV.

An act authorising the emancipation of Abraham, a Negro Slave, late the property of Benjamin Temple.

(Passed, November 16, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented, that a free negro man, who was a resident of King William county, hath lately departed this life, leaving the management of his estate to a certain William Spiller, and among other things directed that he should purchase and emancipate Abraham a negro man slave, the property of Benjamin Temple, Esquire, of the said county, the said

Abraham being the son of the said decedent: *And whereas* in conformity to the request and desire of the said decedent, the said William Spiller hath purchased the said negro man slave Abraham, and hath petitioned this Assembly for a law to pass authorising the emancipation of the said slave:

Abraham a slave late the property of Benjamin Temple emancipated.

SECT. 2. *Be it therefore enacted*, That the said negro man slave Abraham, shall be free in as full and ample a manner, as if he had been born free.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. XCV.

An act concerning Henry Stratton.

(Passed, November 13, 1792.)

Henry Stratton's claim against the Commonwealth to be liquidated and paid.

SECT. 1. *BE it enacted by the General Assembly*, That the executive may, and they are hereby requested and empowered, to settle the claim of Henry Stratton against this Commonwealth, and if on such settlement, there appear a balance in his favor, that they direct the auditor of public accounts to issue to the said Henry Stratton, or his legal attorney, a warrant for the amount thereof, payable out of the aggregate fund.

A sum of money to be paid to him.

SECT. 2. *And be it further enacted*, That the auditor shall issue to the said Henry Stratton, on application in person, or by attorney, a warrant for the sum of fifty-nine pounds one shilling, payable out of any money in the hand of the treasurer, it being one moiety of the proceeds of a vessel belonging to the said Stratton, sold under a decree of the court of admiralty, and paid into the public treasury, which said decree was afterwards reversed by the court of appeals.

CHAP. XCVI.

An act concerning Robert Pollard.

(Passed December 28, 1792.)

Preamble.

SECT. 1. WHEREAS it has been represented to the General Assembly, that by the special request of Brigadier-General Muhlenburg, of the troops engaged in the siege of York, Robert Pollard, then resident in the county of Culpeper, undertook the purchase of spirituous liquor for the use of the said troops; that having procured the quantity of two hundred and eighty gallons of whiskey, he employed a certain William Rowe to waggon it to York, who stored the same in the county of Hanover, where it was seized by William Dandridge of said county, acting at that time in the office of a commissary for the troops at York, who caused the said whiskey to be conveyed to that place, where it was appropriated to to the use of the troops of this state, under the command of the late General Nelson.

A certificate to be issued to Robert Pollard.

SECT. 2. *Be it therefore enacted*, That the auditor of public accounts shall, and he is hereby authorised and directed, on proper application to him made, to issue to the said Robert Pollard, a certificate for the value of the said whiskey, estimating the same per gallon at the rate heretofore affixed and allowed by law.

SECT. 3. This act shall commence and be in force from the passing thereof.

CHAP. XCVII.

An act concerning John Fleming and others.

(Passed November 22, 1792.)

Certificates to be issued to John Fleming.

BE it enacted by the General Assembly, That the auditor of public accounts shall, and he is hereby directed, on proper application to him made, to issue to John Fleming, a certificate or certificates for the pay and depreciation due to him for his services in the navy of this Commonwealth during the late war, with warrants for

the interest due thereon. He shall in like manner issue to Benjamin Temple a certificate for the value of eight hundred and fifty pounds weight of beef, according to the rate heretofore established and allowed by law. He shall in like manner issue to Moses Tandy, for services by him performed in the commercial department during the late war, a warrant for the sum of eleven pounds payable out of the aggregate fund.

Benjamin Temple, and

Moses Tandy.

CHAP XCVIII.

An act for continuing to John Hoomes and others, the exclusive privilege of conveying Persons in Stage Carriages to and from certain places, for a limited time.

(Passed October 31, 1792.)

Stage coach Privilege granted to Hoomes, Townes and Woolfolk continued.

SECT. 1. *BE it enacted by the General Assembly*, That the exclusive privilege granted by two acts of assembly to John Hoomes, Richard Townes, and John Woolfolk, of conveying persons in stage carriages between certain places, for a limited time, which will shortly expire, shall continue and be extended, from the expiration thereof, for and during the term of three years thence next following; any law to the contrary, notwithstanding.

Privilege granted to Pennock, transferred to Townes and Woolfolk.

SECT. 2. *And be it further enacted*, That the privilege granted by an act of assembly to William Pennock, of conveying persons in stage carriages between certain places, for a limited time, shall be, and the same is hereby transferred to the said Richard Townes and John Woolfolk, which said privilege shall, from and after the expiration thereof, continue and be in force for and during the term of three years thence next following.

CHAP. XCIX.

An act concerning Thomas Newton, junior.

(Passed November 17, 1792.)

Preamble.

SECT. 1. WHEREAS a lot of land the property of Thomas Newton, junior, situate and being in the city of Richmond, and distinguished in the plan thereof by the number, "Four hundred and six," was taken by the directors of the public buildings for the use of the Commonwealth. *And whereas* the said lot of land by inquest taken on the seventeenth day of August, one thousand seven hundred and eighty-four, was valued to the sum of one hundred and fifty-four pounds:

Money to be paid to Thomas Newton;

SECT. 2. *Be it therefore enacted by the General Assembly*, That the auditor of public accounts, on application to him made, shall issue a warrant or warrants to the said Thomas Newton, junior, for the amount of the lot aforesaid, conformably to the valuation aforesaid; and also in like manner issue a warrant or warrants for the interests accruing thereon, after the rate of five *per centum per* year, from the period of such valuation. The said warrants shall be payable out of the contingent fund, and the treasurer is hereby directed to pay the same.

Out of the contingent fund.

CHAP. C.

An act for suspending certain Executions.

(Passed October 12, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that a certain Willian Overton Winston and a certain William Anderson, were commissioned sheriffs of the county of Hanover, for the years one thousand seven hundred and eighty-seven, one thousand seven hundred and eighty-eight, one thousand seven hundred and eighty-nine, and one thousand seven hundred and ninety, and accordingly qualified thereto, in which characters they appointed Richard Littlepage as one of their deputy sheriffs for the said years, who accordingly qua-

lified and entered into bonds with Mr. Robert Page and Mr. John White, his securities, conditioned for the faithful discharge of the duties of his office: *And whereas* it hath been also represented, that from the default of the said Richard Littlepage, in failing to account for the public taxes due for the said years, judgments have been obtained on behalf of the Commonwealth against the said high sheriffs, for the sum of five thousand five hundred and ninety-three pounds two shillings and eight pence, upon which judgment executions have been sued out and levied; in consequence whereof, like judgments have been obtained by the said William Overton Winston and William Anderson, against the said Richard Littlepage, and the said Robert Page and John White, as his securities and executions sued out thereon, and the whole of their estates have been taken and made subject thereto. *And whereas* it hath been further represented, that the said Richard Littlepage hath for the indemnity of his said securities, delivered into their hands certain lands, and bonds, of value adequate to the discharge of the said judgments due to the public; and application hath been made to this assembly for a suspension of the Commonwealth's executions against the said high sheriffs, until the said Robert Page and John White can make the necessary sale and collection of the said lands and bonds, and pay the amount thereof into the public treasury, which is adjudged reasonable:

Executions on behalf of the Commonwealth against the estates of William Overton, William Anderson, Richard Littlepage, Robert Page, and John White to be suspended.

SECT. 2. *Be it therefore enacted*, That the several executions which have been sued out against the estates of the said William Overton Winston and William Anderson, and the estate of the said Richard Littlepage, Robert Page, and John White, shall be, and the same are hereby suspended until the first day of December, one thousand seven hundred and ninety-three. *Provided*, that the said William Overton Winston, and Cecilia Anderson, administratrix, of the said William Anderson, shall give bond with approved security to the sheriff of the county of Hanover, for the forthcoming of their property by him taken in execution at the period abovementioned, to be recovered on breach of the condition, for the use of the Commonwealth, by motion upon ten days previous notice being given; and that the said Richard Littlepage, Robert Page, and John White, give bond with good and sufficient security, to the said William Overton Winston, and Cecilia Anderson, for the forth-

coming of their property, now subject to the execution of the said William Overton Winston, and Cecilia Anderson, at the above period; to be recovered on breach of the condition for their use, upon motion, ten days previous notice being given.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. CI.

An act for refunding the damages on two judgments obtained against Thomas Claiborne and William Griffin.

(Passed November 10, 1792.)

Preamble.

SECT. 1. WHEREAS it is represented that Thomas Claiborne, sheriff of the county of Brunswick, in the year one thousand seven hundred and eighty-nine, paid into the public treasury the sum of one hundred and seventeen pounds ten shillings, being the amount of the damages on a judgment obtained by the Commonwealth for the balance of the taxes due from him in the year aforesaid, which damages were paid to the said Thomas Claiborne, by some of the securities for one of his deputy sheriffs; And whereas application hath been made to this Assembly, to refund the said sum of one hundred and seventeen pounds ten shillings, which it is judged reasonable and expedient to do:

A sum of money to be paid to Thomas Claiborne, to reimburse the damages paid by one of his deputies and the securities of another.

SECT. 2. *Be it therefore enacted*, That the auditor of public accounts shall issue to the said Thomas Claiborne, a warrant or warrants for the said sum of one hundred and seventeen pounds ten shillings, to be paid out of the aggregate fund, to enable the said Thomas Claiborne to reimburse Theophilus Harrison, one of his deputy sheriffs, as well as such of the securities of one other of his said deputy sheriffs, as paid the same, in such proportion as he may think just and right.

A sum of money to be paid to William Griffin.

SECT. 3. *And be it further enacted*, That the auditor of public accounts, shall issue to William Griffin, of the county of King and Queen, a warrant on the treasurer for

the sum of fifteen pounds twelve shillings and two pence half-penny, to be paid out of the aggregate fund, being the amount of damages on a judgment obtained by the Commonwealth against the said William Griffin for the certificate tax, and by him paid into the treasury.

SECT. 4 This act shall commence and be in force from the passing thereof.

CHAP. CII.

An act for the relief of Edward Booker.

(Passed October 25, 1792.)

Preamble.

SECT. 1. WHEREAS it hath been represented to the present General Assembly, that a certain Edward Booker, of the county of Amelia, became bound as a security for one Millington Roach, as a deputy sheriff under Christopher Hudson, late high sheriff of the said county, and from the default of the said Roach in failing to pay and account with the public for the taxes put into his hands for collection, the said Booker, with John C. Cobbs and William Winston, his securities, are subject to the payment of such deficiency, and in consequence thereof a judgment has been actually obtained against the said Edward Booker, and an execution sued out and levied on his estate. And whereas it hath been also represented that if the Commonwealth's execution is immediately carried into effect, and the property of the said Edward Booker sold for ready money, it will be productive of ruinous consequences to him; and application having been made to this Assembly on behalf of the said Edward Booker for such sale to be made on a reasonable credit, which is adjudged reasonable:

Edward Booker's property under execution, on behalf of the Commonwealth, to be sold on twelve months credit.

SECT. 2. *Be it therefore enacted*, That the sheriff of the said county of Amelia shall be, and he is hereby authorised and required, to cause the property of the said Edward Booker by him taken upon the Commonwealth's execution, as aforesaid, to be sold, on or before the fifteenth day of January, one thousand seven hundred and ninety-three, on a credit of twelve months, and to take bonds of the purchaser or purchasers accordingly, with such security as shall be approved of by William Giles

and John Royall, gentlemen, of the said county, which bonds shall be taken payable to the auditor and his successors, for the use of the Commonwealth, and proceeded on when due, in the same manner as is directed by law in the case of the twelve months repleven bonds.

His securities not to be released.

SECT. 3. *Provided nevertheless, and it is hereby declared to be the true intent and meaning of this act*, That nothing herein contained shall be construed to release the said John C. Cobbs and William Winston, as the securities of the said Edward Booker, until the whole of the said debt with the interest and costs which have accrued thereon, shall be fully satisfied and paid into the public treasury.

SECT. 3. This act shall commence and be in force from and after the passing thereof.

CHAP. CIII.

An act for paying the officers of the General Assembly for their services during the present session.

(Passed December 28, 1792.)

Allowance to the officers of the General Assembly.

SECT. 1. *BE it enacted by the General Assembly*, That the following allowances shall be made to the officers of the General Assembly for their services during the present session: To the chaplain six pounds per week; to the clerk of the house of delegates, thirty-five pounds per week; to the clerk of the senate, seventeen pounds ten shillings per week; to the clerk of the committees of privileges and elections, and propositions and grievances, ten pounds per week; to the clerk of the committee of religion and the committee of claims, ten pounds per week; to the clerk of the committee for courts of justices, eight pounds per week; to the sergeant at arms to the house of delegates, eight pounds ten shillings per week; to the sergeant at arms of the senate, eight pounds ten shillings per week; to each of the door-keepers of the senate, five pounds per week; to each of the door-keepers of the house of delegates, five pounds per week; to Thomas Nicolson, for printing the journals of the senate, fifty-six

pounds; and to the person who hath cleaned the capitol, the sum of ten pounds. And whereas the revision of the laws by the present session of the General Assembly has occasioned an extraordinary expense to the clerk of the house of delegates, he having been compelled to employ seven assistant clerks, and it will be necessary for him to devote much of his time and attention during the ensuing year, to the preparing of the code for publication, and superintending of the press: *Be it therefore enacted*, That on account of the said extraordinary expense and service, a further allowance of two hundred pounds be made to the clerk of the house of delegates.

SECT. 2. This act shall commence and be in force from and after the passing thereof.

CHAP. CIV.

An act to empower Holt Richeson to collect and distrain for certain Taxes in the county of King William.

(Passed December 17, 1792.)

Holt Richeson empowered to collect the taxes due in King William for 1787.

SECT. 1. *BE it enacted by the General Assembly*, That Holt Richeson, in his proper person, or by his deputy, upon giving bond with good security, to be approved of by the court of the county of King William, to the governor of this Commonwealth, conditioned for the faithful collecting, accounting and paying all arrears of taxes due to this Commonwealth in the county of King William, for the year one thousand seven hundred and eighty-seven, shall be, and he is hereby empowered to collect and distrain for all arrears of taxes due to this Commonwealth in the county of King William for the year one thousand seven hundred and eighty-seven; and shall be allowed until the last day of October, one thousand seven hundred and ninety-three, to complete the collection of the said taxes, and pay the same into the public treasury.

SECT. 2. This act shall commence and be in force from and after the first day of January next.

IN THE HOUSE OF DELEGATES.

Thursday, the 11th of October, 1792.

THE General Assembly of Virginia, considering it as one among the important privileges of the people, that the doors of the Senate of the United States should be open, when they are exercising their judicial or legislative functions:

Resolved unanimously, That the Senators of this Commonwealth in the Senate of the United States, use their utmost endeavours to procure the admission of the citizens of the United States to hear the debates of their house, whenever they are sitting in their legislative capacity.

Resolved unanimously, That the Senators of this Commonwealth in the Senate of the United States, use their utmost endeavours to procure the admission of the citizens of the United States, whenever the Senate shall be sitting in its judicial capacity.

October the 13th, 1792.—Agreed to by the Senate.

Tuesday, the 18th of December, 1792.

THE house, according to the order of day, resolved itself into a committee of the whole house on the state of the Commonwealth, to whom was committed the report and resolutions respecting the suit commenced by the Indiana Company in the supreme court of the United States against this Commonwealth, and after some time spent therein, Mr. Speaker resumed the chair, and Mr. Wise reported, that the committee had, according to order, had the said report and resolutions under their consideration, and had made no amendment thereto; and he read the said resolutions in his place, and afterwards delivered them in at the clerk's table, where the same were again twice read, and agreed to by the house, as followeth: Indiana claim rejected.

Your committee find on examining the records of the General Assembly, the following resolutions passed by the House of Delegates on the ninth day of June, one thousand seven hundred and seventy-nine, and agreed to by the Senate on twelfth day of the same month.

"*Resolved*, That the Commonwealth of Virginia hath "the exclusive right of pre-emption from the Indians, of "all lands within the limits of its own chartered territory, "as declared by the act and constitution of government "in the year one thousand seven hundred and seventy-"six; that no person or persons whatsoever, have or ever "had a right to purchase lands within the same, from "any Indian nation, except only persons duly authorised "to make such purchases on the public account, formerly "for the use and benefit of the colony, and lately of the "Commonwealth, and that such exclusive right of pre-"emption will, and ought to be maintained by this Com-"monwealth to the utmost of its power.

"*Resolved*, That every purchase of lands heretofore "made by the king of Great Britain from any Indian na-"tion or nations within the before mentioned territory, "doth and ought to enure forever to and for the use and "benefit of this Commonwealth, and to and for no other "use or purpose whatsoever.

"*Resolved therefore*, That the deed from the Six Uni-"ted Nations of Indians, bearing date the third day of "November, in the year one thousand seven hundred and "sixty-eight, for certain lands between the Allegany "mountains and the river Ohio, above the mouth of the "Little Kanawha creek, to and for the use and benefit "of a certain William Trent, gentleman, in his own right, "and as attorney for sundry persons in the said deed "named, as well as all other deeds which have been or "shall be made, by any Indian or Indians, or by any In-"dian nation or nations, for lands within the limits of "the charter and territory of Virginia as aforesaid, to or "for the use or benefit of any private person or persons, "shall be, and the same are hereby declared utterly void, "and of no effect.

"Teste,

"E. RANDOLPH, C. H. D."

"June 12th, 1779.—Agreed to by the Senate,

"JOHN BECKLEY, C. S."

From the foregoing resolutions it appears, that the claim of the Indiana Company, has been already decided on by the legislature of this Commonwealth: Your committee are therefore of opinion, that such decision having been made previous to the adoption of the present constitution, and under the former instrument of confedera-

tion (which expressly guaranteed perfect and unimpaired sovereignty as to all matters of internal government to all the states leagued under it) cannot be again called in question, before any other tribunal than the General Assembly of this Commonwealth, without a dangerous and unconstitutional assumption of power, which, if exercised, would give birth to a series of pernicious and disgraceful consequences, the extent and duration of which, it is hardly possible to measure or calculate:

Resolved therefore, That the jurisdiction of the supreme court of the United States, does not and cannot extend to this case, it having been already decided on before a tribunal fully competent to its decision.

Resolved, That the state cannot be made a defendant in the said court, at the suit of any individual or individuals.

Resolved, That the executive be requested, to pursue such measures in this case, as may to them seem most conducive to the interest, honor and dignity of this Commonwealth.

December the 20th, 1792.—Agreed to by the Senate.

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THIRTEENTH VOLUME

OF THE

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